

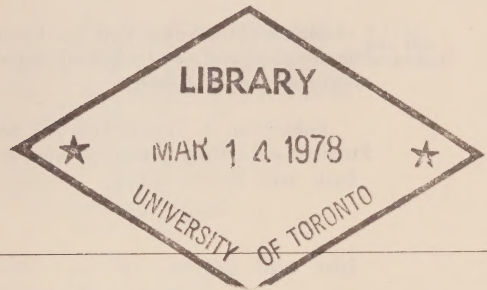
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2ND SESSION, 31ST LEGISLATURE, ONTARIO
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109

Legislative Assembly

An Act to amend The Highway Traffic Act



THE HON. J. W. SNOW
Minister of Transportation and Communications

TORONTO

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EXPLANATORY NOTES

SECTION 1.—Subsection 1. Paragraph 15b defines “mobile home”. One hundred and two inches are approximately 2.59 metres and 35 feet are approximately 10.6 metres.

Subsection 2. Paragraph 15c defines “motor assisted bicycle”. One hundred and twenty pounds are approximately 54.4 kilograms.

SECTION 2. The reference is to the gross weight of a motor vehicle or a trailer. Six thousand pounds are approximately 2,721.5 kilograms.

SECTION 3. The references are to the gross weight of a motor vehicle, bicycle or trailer. Six thousand pounds are approximately 2,721.5 kilograms.

SECTION 4.—Subsection 1. The reference is to distance at which persons or vehicles on a highway are not clearly discernible. Five hundred feet are approximately 152.4 metres.

BILL 23

1978

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 15*b* of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 45, section 1, is amended,
 - (a) by striking out “102 inches” in the third line and inserting in lieu thereof “2.6 metres”; and
 - (b) by striking out “35 feet” in the fourth line and inserting in lieu thereof “eleven metres”.
- (2) Subparagraph ii of paragraph 15*c* of subsection 1 of the said section 1, as re-enacted by the Statutes of Ontario, 1975, chapter 78, section 1, is amended by striking out “120 pounds” and inserting in lieu thereof “fifty-five kilograms”.

s. 1 (1),
par. 15*b*,
amended
2. Subsection 3 of section 7 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 66, section 3, is further amended by striking out “6,000 pounds” in the second line and inserting in lieu thereof “2,750 kilograms”.

s. 7 (3),
amended
- 3.—(1) Subsection 2 of section 36 of the said Act is amended by striking out “6,000 pounds” in the third line and inserting in lieu thereof “2,750 kilograms”.

s. 36 (2),
amended
- (2) Subsection 3 of the said section 36 is amended by striking out “6,000 pounds” in the fourth line and inserting in lieu thereof “2,750 kilograms”.

s. 36 (3),
amended
- 4.—(1) Subsection 1 of section 37 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 37, section 5, is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”.

s. 37 (1),
amended

s. 37 (1c),
amended

- (2) Subsection 1c of the said section 37, as enacted by the Statutes of Ontario, 1976, chapter 37, section 5, is amended by striking out "500 feet" in the third line and inserting in lieu thereof "150 metres".

s. 37 (1d),
amended

- (3) Subsection 1d of the said section 37, as enacted by the Statutes of Ontario, 1976, chapter 37, section 5, is amended by striking out "500 feet" in the ninth line and inserting in lieu thereof "150 metres".

s. 37 (2),
amended

- (4) Subsection 2 of the said section 37 is amended,
- (a) in subclause i of clause a, by striking out "500 feet" in the fourth line and inserting in lieu thereof "150 metres";
 - (b) in subclause ii of clause a, by striking out "16 square inches" in the sixth and seventh lines and inserting in lieu thereof "100 square centimetres"; and
 - (c) in clause b, by striking out "16 square inches" in the fifth and sixth lines and inserting in lieu thereof "100 square centimetres".

s. 37 (3),
amended

- (5) Subsection 3 of the said section 37, as amended by the Statutes of Ontario, 1977, chapter 54, section 6, is further amended by striking out "350 feet" in the sixth line and inserting in lieu thereof "110 metres".

s. 37 (4),
amended

- (6) Subsection 4 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5, is further amended,
- (a) by striking out "30 miles" in the fourth line and inserting in lieu thereof "50 kilometres"; and
 - (b) by striking out "200 feet" in the sixth line and inserting in lieu thereof "sixty metres".

s. 37 (5),
amended

- (7) Subsection 5 of the said section 37 is amended by striking out "300 candle-power" in the third line and inserting in lieu thereof "300 candela".

s. 37 (6),
amended

- (8) Subsection 6 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5, is further amended,
- (a) by striking out "500 feet" in the fifth line and inserting in lieu thereof "150 metres";

Subsections 2 and 3. The reference is to the distance at which a lighted lamp shall be clearly visible.

Subsection 4. The reference in subclause i of clause *a* is to the distance at which a lighted red light on the rear of a motor vehicle shall be visible.

The references in subclause ii of clause *a* and in clause *b* are to the size of a red reflector or red reflective material. Sixteen square inches are approximately 103 square centimetres.

Subsection 5. The reference is to the driving light produced by lamps on the front of a motor vehicle. Three hundred and fifty feet are approximately equal to 107 metres.

Subsection 6. A reference to 30 miles per hour is converted to a reference to 50 kilometres per hour and a reference to a distance of 200 feet is converted to a reference to sixty metres.

Thirty miles are approximately 48.2 kilometres and 200 feet are approximately 60.9 metres.

Subsection 7. The reference is to the intensity of the beam of light projected by the front lamps of a motor vehicle. The candela is the basic unit of measurement of luminous intensity.

Subsection 8. The subsection deals with clearance lamps. Clause *a* refers to the distance at which persons and vehicles are not clearly discernible. Five hundred feet are approximately 152.4 metres. Clauses *b* and *c* refer to the width of a vehicle. Eighty inches are approximately 2.03 metres. Clause *c* refers to the distance from the side of a vehicle. Six inches are approximately 152.4 millimetres.

Subsection 9. The reference is to the width of a motor vehicle.

Subsection 10. The subsection deals with identification lamps on commercial motor vehicles and combinations of commercial motor vehicles and trailers. The references in clauses *a* and *e* are to distance for the purpose of visibility. The references in clauses *b* and *c* are to the length and width of the vehicle or combination of vehicle and trailer, and the reference in clause *d* is to the spacing of the lamps.

Thirty feet are approximately 9.14 metres.

Six inches are approximately 152.4 millimetres and twelve inches are approximately 304.8 millimetres.

Subsection 11. The subsection deals with side marker lamps. Twenty feet are approximately 6.1 metres.

Subsection 12. The reference is to the size of a lamp. Four inches are 101.6 millimetres.

Subsection 13. The subsection deals with bicycles and tricycles. Ten inches are 254 millimetres and one inch is 25.4 millimetres.

Subsection 14. The subsection deals with the lamp required to illuminate the numbers on the rear number plate of a motor vehicle or trailer.

Subsection 15. The subsection refers to a light that may be used on a motor vehicle that is not in motion. Two hundred feet are approximately 60.9 metres.

Subsection 16. The subsection deals with spotlamps. One hundred feet are approximately 30.4 metres.

Subsections 17 and 18. The reference is to the distance at which persons and vehicles are not clearly discernible.

Subsection 19. The subsection deals with lights for wide vehicles. Ninety-six inches are approximately 2.43 metres.

Subsection 20. This subsection also deals with lights on vehicles.

Subsection 21. This subsection deals with lights on farm tractors and farm equipment.

Subsection 22. The subsection refers to the size of vehicles that are required to have signalling devices. Eighty inches are approximately 2.03 metres and twenty feet are approximately 6.1 metres.

Subsection 23. The subsection deals with the lamp required on snow removal equipment.

- (b) by striking out “80 inches” in the seventh line and inserting in lieu thereof “2.05 metres”;
 - (c) by striking out “80 inches” in the fifteenth line and inserting in lieu thereof “2.05 metres”; and
 - (d) by striking out “6 inches” in the twenty-fourth line and inserting in lieu thereof “160 millimetres”.
- (9) Subsection 7 of the said section 37 is amended by striking out “80 inches” in the third and fourth lines and inserting in lieu thereof “2.05 metres”. s. 37 (7),
amended
- (10) Subsection 9 of the said section 37 is amended, s. 37 (9),
amended
- (a) by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”;
 - (b) by striking out “30 feet” in the seventh line and inserting in lieu thereof “9.2 metres”;
 - (c) by striking out “80 inches” in the eighth line and inserting in lieu thereof “2.05 metres”;
 - (d) by striking out “six nor more than twelve inches” in the twelfth and thirteenth lines and inserting in lieu thereof “150 millimetres nor more than 310 millimetres”; and
 - (e) by striking out “500 feet” in the sixteenth line and inserting in lieu thereof “150 metres”.
- (11) Subsection 11 of the said section 37 is amended, s. 37 (11),
amended
- (a) by striking out “500 feet” in the fifth line, the thirteenth line and the nineteenth line and inserting in lieu thereof in each instance “150 metres”; and
 - (b) by striking out “20 feet” in the seventh line and inserting in lieu thereof “6.1 metres”.
- (12) Subsection 13 of the said section 37 is amended by striking out “4 inches” in the third line and inserting in lieu thereof “102 millimetres”. s. 37 (13),
amended
- (13) Subsection 14 of the said section 37, as amended by the Statutes of Ontario, 1974, chapter 123, section 11, is further amended, s. 37 (14),
amended
- (a) by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”;

- (b) by striking out “ten inches” in the eleventh line and inserting in lieu thereof “250 millimetres”; and
- (c) by striking out “one inch” in the eleventh line and inserting in lieu thereof “25 millimetres”.

s. 37 (16),
amended

(14) Subsection 16 of the said section 37 is amended,

- (a) by striking out “candle-power” in the second line and inserting in lieu thereof “candela”; and
- (b) by striking out “500 feet” in the sixth line and inserting in lieu thereof “150 metres”.

s. 37 (17),
amended

(15) Subsection 17 of the said section 37 is amended by striking out “200 feet” in the sixth line and inserting in lieu thereof “sixty metres”.

s. 37 (19),
amended

(16) Subsection 19 of the said section 37 is amended by striking out “100 feet” in the sixth line and inserting in lieu thereof “thirty metres”.

s. 37 (20),
amended

(17) Subsection 20 of the said section 37 is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”.

s. 37 (21),
amended

(18) Subsection 21 of the said section 37 is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”.

s. 37 (22),
amended

(19) Subsection 22 of the said section 37 is amended,

- (a) by striking out “500 feet” in the fifth line and in the twelfth line and inserting in lieu thereof in each instance “150 metres”; and
- (b) by striking out “96 inches” in the seventh line and inserting in lieu thereof “2.6 metres”.

s. 37 (23),
amended

(20) Subsection 23 of the said section 37, as amended by the Statutes of Ontario, 1974, chapter 123, section 11, is further amended by striking out “500 feet” in the seventh line and in the twelfth and thirteenth lines and inserting in lieu thereof in each instance “150 metres”.

s. 37 (24),
amended

(21) Subsection 24 of the said section 37 is amended by striking out “500 feet” in the seventh line and inserting in lieu thereof “150 metres”.

s. 37 (28),
amended

(22) Subsection 28 of the said section 37 is amended,

SECTION 5. The reference is to the size of the lettering of the words required on a right hand drive vehicle that is not equipped with a signal device. Two inches are 50.8 millimetres.

SECTION 6. The reference is to the gross weight of a trailer or semi-trailer. Three thousand pounds are approximately 1,360.7 kilograms.

SECTION 7. The reference is to a mirror extending from the side of a vehicle. Twelve inches are 304.8 millimetres.

SECTION 8. The references are to the gross weight of self-propelled vehicles and to the distance between the wheel rim and the roadway. Two tons are approximately 1,814 kilograms. One and one-quarter inches are approximately 31.7 millimetres.

SECTION 9. The references are to the size of letters required on a rebuilt tire. One-half inch is approximately twelve millimetres. The amendment reduces the required size of letters.

SECTION 10.—Subsection 1. The reference is to the position of a reflector on the rear of a commercial motor vehicle or trailer. Six inches are approximately 152 millimetres.

Subsection 2. The reference is to the distance at which a rear red light shall be clearly visible. 500 feet are approximately 152 metres.

SECTION 11.—Subsection 1. The references are to the width of a vehicle and to the width of a traction engine. 102-23/64 inches are approximately 2.59 metres. 110-15/64 inches equal approximately 2.79 metres.

- (a) by striking out “80 inches” in the second line and inserting in lieu thereof “2.05 metres”; and
- (b) by striking out “20 feet” in the third line and inserting in lieu thereof “6.1 metres”.
- (23) Subsection 30 of the said section 37 is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”. s. 37 (30), amended
5. Section 38 of the said Act is amended by striking out “two inches” in the fifth line and inserting in lieu thereof “50 millimetres”. s. 38, amended
6. Subsection 3 of section 39 of the said Act is amended by striking out “3,000 pounds” in the first and second lines and inserting in lieu thereof “1,360 kilograms”. s. 39 (3), amended
7. Section 41*a* of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 54, section 7, is amended by striking out “twelve inches” in the fourth line and inserting in lieu thereof “305 millimetres”. s. 41 *a*, amended
8. Subsection 1 of section 43 of the said Act is amended, s. 43 (1), amended
- (a) by striking out “two tons” in the second line and inserting in lieu thereof “1,820 kilograms”; and
- (b) by striking out “one and one-quarter inches” in the eighth and ninth lines and inserting in lieu thereof “31.5 millimetres”.
- 9.—(1) Subsection 2 of section 45 of the said Act is amended by striking out “one-half inch” in the third line and inserting in lieu thereof “six millimetres”. s. 45 (2), amended
- (2) Subsection 3 of the said section 45 is amended by striking out “one-half inch” in the fourth line and inserting in lieu thereof “six millimetres”. s. 45 (3), amended
- 10.—(1) Subsection 2 of section 61 of the said Act is amended by striking out “six inches” in the second line and inserting in lieu thereof “160 millimetres”. s. 61 (2), amended
- (2) Clause *a* of subsection 3 of the said section 61 is amended by striking out “500 feet” in the fourth line and inserting in lieu thereof “150 metres”. s. 61 (3) (*a*), amended
- 11.—(1) Subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended, s. 65 (1), amended

- (a) by striking out “102-23/64 inches” in the second line and inserting in lieu thereof “2.6 metres”; and
- (b) by striking out “110-15/64 inches” in the fourth line and inserting in lieu thereof “2.8 metres”.

s. 65 (2),
amended

- (2) Subsection 2 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended,

- (a) by striking out “102-23/64 inches” in the second line and in the fifth line and inserting in lieu thereof in each instance “2.6 metres”; and
- (b) by striking out “110-15/64 inches” in the sixth and seventh lines and inserting in lieu thereof “2.8 metres”.

s. 65 (4),
amended

- (3) Subsection 4 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “four inches” in the sixth line and inserting in lieu thereof “102 millimetres”.

s. 65 (5),
amended

- (4) Subsection 5 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended,

- (a) by striking out “36 feet 1-1/16 inches” in the third line and inserting in lieu thereof “eleven metres”; and
- (b) by striking out “68 feet 10-49/64 inches” in the fifth and sixth lines and inserting in lieu thereof “twenty-one metres”.

s. 65 (6),
amended

- (5) Subsection 6 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “45 feet 11-11/64 inches” in the third line and inserting in lieu thereof “fourteen metres”.

s. 65 (7),
amended

- (6) Subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “41 feet $\frac{1}{8}$ inch” in the first line and inserting in lieu thereof “12.5 metres”.

s. 65 (8),
amended

- (7) Subsection 8 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “50 feet” in the third line and inserting in lieu thereof “15.25 metres”.

Subsection 2. The references are to the width of load on a vehicle.

Subsection 3. The reference is to the extension of width by a load covering mechanism. Four inches are approximately 101 millimetres.

Subsection 4. The references are to the length of a vehicle and to the length of a combination of vehicles. 36 feet 1-1/16 inches are approximately 10.9 metres. 68 feet 10-49/64 inches are approximately 20.9 metres.

Subsection 5. The reference is to the length of a semi-trailer. 45 feet 11-11/64 inches are approximately 13.9 metres.

Subsection 6. The reference is to the length of a bus. 41 feet 1/8 inch are approximately 12.49 metres.

Subsection 7. The reference is to the length of a combination of vehicles. Fifty feet are 15.24 metres.

Subsection 8. The reference is to the height of a vehicle including load. 13 feet 7³/₈ inches are approximately 4.149 metres.

SECTION 12. The reference is to a load that overhangs the rear of a vehicle. Four feet ten inches are approximately 1.47 metres.

SECTION 13. Subsection 1 of section 70 of the Act defines terms used in Part VII of the Act.

Clause *b* defines "axle group weight".

Clause *d* defines "axle unit weight".

Clause *g* defines "dual axle". 39.5 inches are approximately one metre.

Clause *h* defines "four axle group". 98.5 inches are approximately 2.5 metres.

Clause *j* defines "gross vehicle weight".

Clause *m* defines "single axle".

Clause *n* defines "tank-truck". Five hundred gallons are approximately 2.27 kilolitres.

Clause *o* defines "three axle group".

Clause *p* defines "triple axle".

Clause *q* defines "two axle group". 78.5 inches are approximately 1.9 metres.

SECTION 14. The subsection deals with weight restrictions on tires.

5.9 inches are approximately 149.8 millimetres.

504 pounds are approximately 228.6 kilograms.

One inch is approximately 25.4 millimetres.

504 pounds per inch is equal to 9 kilograms per millimetre.

616 pounds are approximately 279.4 kilograms.

616 pounds per inch are 11 kilograms per millimetre.

(8) Subsection 9 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out "13 feet $7\frac{3}{8}$ inches" in the second line and inserting in lieu thereof "4.15 metres". s. 65 (9),
amended

12. Subsection 1 of section 67 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out "4 feet 10 inches" in the second line and inserting in lieu thereof "1.5 metres". s. 67 (1),
amended

13. Subsection 1 of section 70 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended, s. 70 (1),
amended

(a) in clause *b*, by striking out "pounds" in the second line and inserting in lieu thereof "kilograms";

(b) in clause *d*, by striking out "pounds" in the second line and inserting in lieu thereof "kilograms";

(c) in clause *g*, by striking out "39.5 inches" in the second line and inserting in lieu thereof "one metre";

(d) in clause *h*, by striking out "98.5 inches" in the sixth line and inserting in lieu thereof "2.5 metres";

(e) in clause *j*, by striking out "pounds" in the second line and inserting in lieu thereof "kilograms";

(f) in clause *m*, by striking out "39.5 inches" in the third line and inserting in lieu thereof "one metre";

(g) in clause *n*, by striking out "500 gallons" in the fourth line and inserting in lieu thereof "2.3 kilolitres";

(h) in clause *o*, by striking out "98.5 inches" in the eighth line and inserting in lieu thereof "2.5 metres";

(i) in clause *p*, by striking out "39.5 inches" in the sixth line and inserting in lieu thereof "one metre"; and

(j) in clause *q*, by striking out "78.5 inches in the sixth line and inserting in lieu thereof "two metres".

14. Subsection 1 of section 71 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended, s. 71 (1),
amended

- (a) by striking out “5.9 inches” in the second line and inserting in lieu thereof “150 millimetres”;
- (b) by striking out “inch” in the third line and inserting in lieu thereof “millimetre”;
- (c) by striking out “504 pounds” in the fourth line and inserting in lieu thereof “nine kilograms”;
- (d) by striking out “5.9 inches” in the fifth line and inserting in lieu thereof “150 millimetres”;
- (e) by striking out “inch” in the sixth line and inserting in lieu thereof “millimetre”; and
- (f) by striking out “616 pounds” in the seventh line and inserting in lieu thereof “eleven kilograms”.

s. 72 (1),
amended

15.—(1) Subsection 1 of section 72 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended,

- (a) by striking out “19,800 pounds” in the sixth line and inserting in lieu thereof “9,000 kilograms”; and
- (b) by striking out “22,000 pounds” in the seventh line and inserting in lieu thereof “10,000 kilograms”.

s. 72 (2),
amended

(2) Subsection 2 of the said section 72 is amended by striking out “39,600 pounds” in the second and third lines and inserting in lieu thereof “18,000 kilograms”.

s. 72 (3),
amended

(3) Subsection 3 of the said section 72 is amended by striking out “59,400 pounds” in the second and third lines and inserting in lieu thereof “27,000 kilograms”.

s. 72 (4),
amended

(4) Subsection 4 of the said section 72 is amended by striking out “11,000 pounds” in the third line and inserting in lieu thereof “5,000 kilograms”.

s. 74 (2),
amended

16.—(1) Subsection 2 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended,

- (a) by striking out “1,000 pounds” in the fourth and fifth lines and inserting in lieu thereof “454 kilograms”; and
- (b) by striking out “140,000 pounds” in the eleventh line and inserting in lieu thereof “63,500 kilograms”.

SECTION 15. The section deals with axle unit weights.

19,800 pounds are approximately 8,981 kilograms.

22,000 pounds are approximately 9,979 kilograms.

39,600 pounds are approximately 17,962 kilograms.

59,400 pounds are approximately 26,943 kilograms.

11,000 pounds are approximately 4,989 kilograms.

SECTION 16.—Subsection 1. The reference is to gross vehicle weights. One thousand pounds are approximately 453.5 kilograms. 140,000 pounds are approximately 63,502 kilograms.

Subsection 2. The reference is to weight on a front axle.

SECTION 17. The references are to the weight upon an axle and the spacing between axles.

18,000 pounds are approximately 8,164 kilograms.

7 feet 10 inches are approximately 2.38 metres.

12,100 pounds are approximately 5,488 kilograms.

SECTION 18.—Subsection 1. The subsection refers to a conversion unit used to convert a two axle tractor into a three axle tractor.

15,400 pounds are approximately 6,985 kilograms.

Subsections 2 and 3. The references are to the weight transmitted by an axle.

11,000 pounds are approximately 4,989 kilograms.

16,500 pounds are approximately 7,484 kilograms.

Subsection 4. The references are to the carrying capacity of a vehicle and to the weight upon tires.

2,200 pounds are approximately 997 kilograms.

280 pounds per inch are 5 kilograms per millimetre.

SECTION 19. The section provides penalties for contraventions of specific sections of the Act.

Clause *a*. 100 pounds are approximately 45.3 kilograms.

\$0.91 per hundredweight is approximately \$2 per 100 kilograms.

11,000 pounds are approximately 4,989 kilograms.

Clause *b*. \$1.82 per hundredweight is approximately \$4.01 per 100 kilograms.

16,500 pounds are approximately 7,484 kilograms.

Clause *c*. \$2.73 per hundredweight is approximately \$6.02 per 100 kilograms.

22,000 pounds are approximately 9,979 kilograms.

Clause *d*. \$3.64 per hundredweight is approximately \$8.03 per 100 kilograms.

33,000 pounds are approximately 14,968 kilograms.

Clause *e*. \$4.55 per hundredweight is approximately \$10.04 per 100 kilograms.

- (2) Subsection 7 of the said section 74 is amended by striking out "1,000 pounds" in the fourth and fifth lines and inserting in lieu thereof "454 kilograms". s. 74 (7).
amended

17. Section 76 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended, s. 76.
amended

- (a) by striking out "18,000 pounds" in the third line and inserting in lieu thereof "8,200 kilograms";
- (b) by striking out "7 feet 10 inches" in the fourth line and inserting in lieu thereof "2.4 metres"; and
- (c) by striking out "12,100 pounds" in the fifth line and inserting in lieu thereof "5,500 kilograms".

18.—(1) Subsection 3 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out "15,400 pounds" in the seventh line and inserting in lieu thereof "7,000 kilograms". s. 77 (3).
amended

- (2) Subsection 5 of the said section 77 is amended by striking out "11,000 pounds" in the tenth line and inserting in lieu thereof "5,000 kilograms". s. 77 (5).
amended
- (3) Subsection 6 of the said section 77 is amended by striking out "16,500 pounds" in the tenth line and inserting in lieu thereof "7,500 kilograms". s. 77 (6).
amended

(4) Subsection 7 of the said section 77 is amended, s. 77 (7).
amended

- (a) by striking out "2,200 pounds" in the third line and inserting in lieu thereof "1,000 kilograms";
- (b) by striking out "inch" in the eighth line and inserting in lieu thereof "millimetre"; and
- (c) by striking out "280 pounds" in the eighth and ninth lines and inserting in lieu thereof "five kilograms".

19. Section 79 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended, s. 79.
amended

(a) in clause a,

- (i) by striking out "\$0.91 per hundredweight" in the first line and inserting in lieu thereof "\$2 per 100 kilograms", and

- (ii) by striking out “11,000 pounds” in the fourth line and inserting in lieu thereof “5,000 kilograms”;

(b) in clause b,

- (i) by striking out “\$1.82 per hundredweight” in the first line and inserting in lieu thereof “\$4 per 100 kilograms”,
- (ii) by striking out “11,000 pounds” in the third and fourth lines and inserting in lieu thereof “5,000 kilograms”, and
- (iii) by striking out “16,500 pounds” in the fourth line and inserting in lieu thereof “7,500 kilograms”;

(c) in clause c,

- (i) by striking out “\$2.73 per hundredweight” in the first line and inserting in lieu thereof “\$6 per 100 kilograms”,
- (ii) by striking out “16,500 pounds” in the third and fourth lines and inserting in lieu thereof “7,500 kilograms”, and
- (iii) by striking out “22,000 pounds” in the fourth line and inserting in lieu thereof “10,000 kilograms”;

(d) in clause d,

- (i) by striking out “\$3.64 per hundredweight” in the first line and inserting in lieu thereof “\$8 per 100 kilograms”,
- (ii) by striking out “22,000 pounds” in the third and fourth lines and inserting in lieu thereof “10,000 kilograms”, and
- (iii) by striking out “33,000 pounds” in the fourth line and inserting in lieu thereof “15,000 kilograms”;

(e) in clause e,

- (i) by striking out “\$4.55 per hundredweight” in the first line and inserting in lieu thereof “\$10 per 100 kilograms”, and

SECTION 20. The tables set out axle spacings, axle group spacings and maximum allowable weights for the purposes of sections 72 and 73 of the Act.

(ii) by striking out "33,000 pounds" in the third and fourth lines and inserting in lieu thereof "15,000 kilograms".

- 20.** Tables 1 and 2 to Part VII of the said Act, as re-enacted by ^{Part VII, Tables 1-5, re-enacted} the Statutes of Ontario, 1977, chapter 65, section 3, and Tables 3, 4 and 5 to the said Part VII, as enacted by the said section 3, are repealed and the following substituted therefor:

TABLE 1

MAXIMUM ALLOWABLE WEIGHT FOR DUAL AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Metres)	Maximum Allowable Weight (Kilograms)
1.0 to less than 1.2	15,400
1.2 to less than 1.3	16,800
1.3 to less than 1.4	17,200
1.4 to less than 1.5	17,500
1.5 to less than 1.6	17,900
1.6 to less than 1.7	18,300
1.7 to less than 1.8	18,700
1.8 or more	19,100

TABLE 2
MAXIMUM ALLOWABLE WEIGHT FOR
TRIPLE AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Metres)	Maximum Allowable Weight (Kilograms)
2.0 to less than 2.4	19,500
2.4 to less than 2.8	21,300
2.8 to less than 2.9	21,700
2.9 to less than 3.0	22,000
3.0 to less than 3.1	22,400
3.1 to less than 3.2	22,700
3.2 to less than 3.3	23,100
3.3 to less than 3.4	23,400
3.4 to less than 3.5	23,800
3.5 to less than 3.6	24,100
3.6 to less than 3.7	24,400
3.7 to less than 3.8	24,800
3.8 to less than 3.9	25,100
3.9 to less than 4.0	25,500
4.0 to less than 4.1	25,800
4.1 to less than 4.2	26,200
4.2 to less than 4.3	26,500
4.3 to less than 4.4	26,900
4.4 to less than 4.5	27,200
4.5 to less than 4.6	27,600
4.6 to less than 4.7	27,900
4.7 to less than 4.8	28,300
4.8 or more	28,600

TABLE 3
MAXIMUM ALLOWABLE WEIGHT FOR
TWO AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Metres)	Maximum Allowable Weight (Kilograms)
1.0 to less than 1.2	15,000
1.2 to less than 1.3	16,300
1.3 to less than 1.4	16,700
1.4 to less than 1.5	17,000
1.5 to less than 1.6	17,400
1.6 to less than 1.7	17,800
1.7 to less than 1.8	18,200
1.8 to less than 1.9	18,600
1.9 to less than 2.0	19,100

TABLE 4

MAXIMUM ALLOWABLE WEIGHT FOR
THREE AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Metres)	Maximum Allowable Weight (Kilograms)
2.0 to less than 2.4	19,000
2.4 to less than 2.6	20,400
2.6 to less than 2.8	21,000
2.8 to less than 2.9	21,400
2.9 to less than 3.0	21,700
3.0 to less than 3.1	22,000
3.1 to less than 3.2	22,400
3.2 to less than 3.3	22,700
3.3 to less than 3.4	23,000
3.4 to less than 3.5	23,400
3.5 to less than 3.6	23,700
3.6 to less than 3.7	24,000
3.7 to less than 3.8	24,400
3.8 to less than 3.9	24,700
3.9 to less than 4.0	25,000
4.0 to less than 4.1	25,400
4.1 to less than 4.2	25,700
4.2 to less than 4.3	26,000
4.3 to less than 4.4	26,400
4.4 to less than 4.5	26,700
4.5 to less than 4.6	27,000
4.6 to less than 4.7	27,400
4.7 to less than 4.8	27,700
4.8 to less than 4.9	28,000
4.9 to less than 5.0	28,300
5.0 or more	28,600

TABLE 5
MAXIMUM ALLOWABLE WEIGHT FOR
FOUR AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Metres)	Maximum Allowable Weight (Kilograms)
Less than 3.6	23,500
3.6 to less than 3.7	23,900
3.7 to less than 3.8	24,200
3.8 to less than 3.9	24,600
3.9 to less than 4.0	24,900
4.0 to less than 4.1	25,300
4.1 to less than 4.2	25,700
4.2 to less than 4.3	26,000
4.3 to less than 4.4	26,400
4.4 to less than 4.5	26,700
4.5 to less than 4.6	27,100
4.6 to less than 4.7	27,500
4.7 to less than 4.8	27,800
4.8 to less than 4.9	28,200
4.9 to less than 5.0	28,500
5.0 to less than 5.1	28,900
5.1 to less than 5.2	29,300
5.2 to less than 5.3	29,600
5.3 to less than 5.4	30,000
5.4 to less than 5.5	30,300
5.5 to less than 5.6	30,700
5.6 to less than 5.7	31,100
5.7 to less than 5.8	31,400
5.8 to less than 5.9	31,800
5.9 to less than 6.0	32,100
6.0 to less than 6.1	32,500
6.1 to less than 6.2	32,900
6.2 to less than 6.3	33,200
6.3 to less than 6.4	33,600
6.4 to less than 6.5	33,900
6.5 to less than 6.6	34,300
6.6 to less than 6.7	34,700
6.7 to less than 6.8	35,000
6.8 to less than 6.9	35,400
6.9 to less than 7.0	35,700
7.0 to less than 7.1	36,100
7.1 to less than 7.2	36,500
7.2 to less than 7.3	36,800
7.3 to less than 7.4	37,200
7.4 to less than 7.5	37,600
7.5 or more	38,000

Commence-
ment

21. This Act comes into force on the 1st day of April, 1978.

Short title

22. The short title of this Act is *The Highway Traffic Amendment Act, 1978*.

BILL 23

An Act to amend
The Highway Traffic Act

1st Reading

March 6th, 1978

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

88
-B56

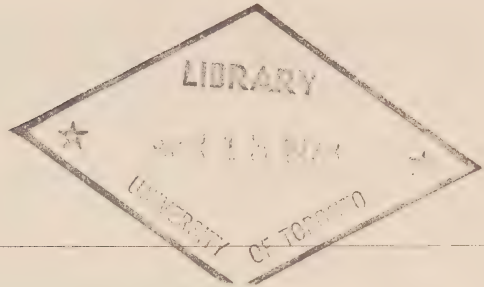
34 BILL/23

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Legislative Assembly

An Act to amend The Highway Traffic Act



THE HON. J. W. SNOW
Minister of Transportation and Communications

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 15*b* of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 45, section 1, is amended, s. 1 (1),
par. 15*b*,
amended
 - (a) by striking out “102 inches” in the third line and inserting in lieu thereof “2.6 metres”; and
 - (b) by striking out “35 feet” in the fourth line and inserting in lieu thereof “eleven metres”.
- (2) Subparagraph ii of paragraph 15*c* of subsection 1 of the said section 1, as re-enacted by the Statutes of Ontario, 1975, chapter 78, section 1, is amended by striking out “120 pounds” and inserting in lieu thereof “fifty-five kilograms”. s. 1 (1),
par. 15*c*,
subpar. ii,
amended
2. Subsection 3 of section 7 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 66, section 3, is further amended by striking out “6,000 pounds” in the second line and inserting in lieu thereof “2,750 kilograms”. s. 7 (3),
amended
- 3.—(1) Subsection 2 of section 36 of the said Act is amended by striking out “6,000 pounds” in the third line and inserting in lieu thereof “2,750 kilograms”. s. 36 (2),
amended
- (2) Subsection 3 of the said section 36 is amended by striking out “6,000 pounds” in the fourth line and inserting in lieu thereof “2,750 kilograms”. s. 36 (3),
amended
- 4.—(1) Subsection 1 of section 37 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 37, section 5, is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”. s. 37 (1),
amended

s. 37 (1c),
amended

- (2) Subsection 1c of the said section 37, as enacted by the Statutes of Ontario, 1976, chapter 37, section 5, is amended by striking out “500 feet” in the third line and inserting in lieu thereof “150 metres”.

s. 37 (1d),
amended

- (3) Subsection 1d of the said section 37, as enacted by the Statutes of Ontario, 1976, chapter 37, section 5, is amended by striking out “500 feet” in the ninth line and inserting in lieu thereof “150 metres”.

s. 37 (2),
amended

- (4) Subsection 2 of the said section 37 is amended,
- (a) in subclause i of clause a, by striking out “500 feet” in the fourth line and inserting in lieu thereof “150 metres”;
 - (b) in subclause ii of clause a, by striking out “16 square inches” in the sixth and seventh lines and inserting in lieu thereof “100 square centimetres”; and
 - (c) in clause b, by striking out “16 square inches” in the fifth and sixth lines and inserting in lieu thereof “100 square centimetres”.

s. 37 (3),
amended

- (5) Subsection 3 of the said section 37, as amended by the Statutes of Ontario, 1977, chapter 54, section 6, is further amended by striking out “350 feet” in the sixth line and inserting in lieu thereof “110 metres”.

s. 37 (4),
amended

- (6) Subsection 4 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5, is further amended,
- (a) by striking out “30 miles” in the fourth line and inserting in lieu thereof “50 kilometres”; and
 - (b) by striking out “200 feet” in the sixth line and inserting in lieu thereof “sixty metres”.

s. 37 (5),
amended

- (7) Subsection 5 of the said section 37 is amended by striking out “300 candle-power” in the third line and inserting in lieu thereof “300 candela”.

s. 37 (6),
amended

- (8) Subsection 6 of the said section 37, as amended by the Statutes of Ontario, 1976, chapter 37, section 5, is further amended,
- (a) by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”;

- (b) by striking out “80 inches” in the seventh line and inserting in lieu thereof “2.05 metres”;
 - (c) by striking out “80 inches” in the fifteenth line and inserting in lieu thereof “2.05 metres”; and
 - (d) by striking out “6 inches” in the twenty-fourth line and inserting in lieu thereof “160 millimetres”.
- (9) Subsection 7 of the said section 37 is amended by striking out “80 inches” in the third and fourth lines and inserting in lieu thereof “2.05 metres”. s. 37 (7).
amended
- (10) Subsection 9 of the said section 37 is amended, s. 37 (9).
amended
- (a) by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”;
 - (b) by striking out “30 feet” in the seventh line and inserting in lieu thereof “9.2 metres”;
 - (c) by striking out “80 inches” in the eighth line and inserting in lieu thereof “2.05 metres”;
 - (d) by striking out “six nor more than twelve inches” in the twelfth and thirteenth lines and inserting in lieu thereof “150 millimetres nor more than 310 millimetres”; and
 - (e) by striking out “500 feet” in the sixteenth line and inserting in lieu thereof “150 metres”.
- (11) Subsection 11 of the said section 37 is amended, s. 37 (11).
amended
- (a) by striking out “500 feet” in the fifth line, the thirteenth line and the nineteenth line and inserting in lieu thereof in each instance “150 metres”;
 - (b) by striking out “20 feet” in the seventh line and inserting in lieu thereof “6.1 metres”.
- (12) Subsection 13 of the said section 37 is amended by striking out “4 inches” in the third line and inserting in lieu thereof “102 millimetres”. s. 37 (13).
amended
- (13) Subsection 14 of the said section 37, as amended by the Statutes of Ontario, 1974, chapter 123, section 11, is further amended, s. 37 (14).
amended
- (a) by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”;

(b) by striking out “ten inches” in the eleventh line and inserting in lieu thereof “250 millimetres”; and

(c) by striking out “one inch” in the eleventh line and inserting in lieu thereof “25 millimetres”.

s. 37 (16),
amended

(14) Subsection 16 of the said section 37 is amended,

(a) by striking out “candle-power” in the second line and inserting in lieu thereof “candela”; and

(b) by striking out “500 feet” in the sixth line and inserting in lieu thereof “150 metres”.

s. 37 (17),
amended

(15) Subsection 17 of the said section 37 is amended by striking out “200 feet” in the sixth line and inserting in lieu thereof “sixty metres”.

s. 37 (19),
amended

(16) Subsection 19 of the said section 37 is amended by striking out “100 feet” in the sixth line and inserting in lieu thereof “thirty metres”.

s. 37 (20),
amended

(17) Subsection 20 of the said section 37 is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”.

s. 37 (21),
amended

(18) Subsection 21 of the said section 37 is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”.

s. 37 (22),
amended

(19) Subsection 22 of the said section 37 is amended,

(a) by striking out “500 feet” in the fifth line and in the twelfth line and inserting in lieu thereof in each instance “150 metres”; and

(b) by striking out “96 inches” in the seventh line and inserting in lieu thereof “2.6 metres”.

s. 37 (23),
amended

(20) Subsection 23 of the said section 37, as amended by the Statutes of Ontario, 1974, chapter 123, section 11, is further amended by striking out “500 feet” in the seventh line and in the twelfth and thirteenth lines and inserting in lieu thereof in each instance “150 metres”.

s. 37 (24),
amended

(21) Subsection 24 of the said section 37 is amended by striking out “500 feet” in the seventh line and inserting in lieu thereof “150 metres”.

s. 37 (28),
amended

(22) Subsection 28 of the said section 37 is amended,

- (a) by striking out “80 inches” in the second line and inserting in lieu thereof “2.05 metres”; and
 - (b) by striking out “20 feet” in the third line and inserting in lieu thereof “6.1 metres”.
- (23) Subsection 30 of the said section 37 is amended by striking out “500 feet” in the fifth line and inserting in lieu thereof “150 metres”. s. 37 (30),
amended
5. Section 38 of the said Act is amended by striking out “two inches” in the fifth line and inserting in lieu thereof “50 millimetres”. s. 38,
amended
6. Subsection 3 of section 39 of the said Act is amended by striking out “3,000 pounds” in the first and second lines and inserting in lieu thereof “1,360 kilograms”. s. 39 (3),
amended
7. Section 41*a* of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 54, section 7, is amended by striking out “twelve inches” in the fourth line and inserting in lieu thereof “305 millimetres”. s. 41 *a*,
amended
8. Subsection 1 of section 43 of the said Act is amended, s. 43 (1),
amended
- (a) by striking out “two tons” in the second line and inserting in lieu thereof “1,820 kilograms”; and
 - (b) by striking out “one and one-quarter inches” in the eighth and ninth lines and inserting in lieu thereof “31.5 millimetres”.
- 9.—(1) Subsection 2 of section 45 of the said Act is amended by striking out “one-half inch” in the third line and inserting in lieu thereof “six millimetres”. s. 45 (2),
amended
- (2) Subsection 3 of the said section 45 is amended by striking out “one-half inch” in the fourth line and inserting in lieu thereof “six millimetres”. s. 45 (3),
amended
- 10.—(1) Subsection 2 of section 61 of the said Act is amended by striking out “six inches” in the second line and inserting in lieu thereof “160 millimetres”. s. 61 (2),
amended
- (2) Clause *a* of subsection 3 of the said section 61 is amended by striking out “500 feet” in the fourth line and inserting in lieu thereof “150 metres”. s. 61 (3) (*a*),
amended
- 11.—(1) Subsection 1 of section 65 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended, s. 65 (1),
amended

- (a) by striking out “102-23/64 inches” in the second line and inserting in lieu thereof “2.6 metres”; and
- (b) by striking out “110-15/64 inches” in the fourth line and inserting in lieu thereof “2.8 metres”.

s. 65 (2),
amended

- (2) Subsection 2 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended,

- (a) by striking out “102-23/64 inches” in the second line and in the fifth line and inserting in lieu thereof in each instance “2.6 metres”; and
- (b) by striking out “110-15/64 inches” in the sixth and seventh lines and inserting in lieu thereof “2.8 metres”.

s. 65 (4),
amended

- (3) Subsection 4 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “four inches” in the sixth line and inserting in lieu thereof “102 millimetres”.

s. 65 (5),
amended

- (4) Subsection 5 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended,

- (a) by striking out “36 feet 1-1/16 inches” in the third line and inserting in lieu thereof “eleven metres”; and
- (b) by striking out “68 feet 10-49/64 inches” in the fifth and sixth lines and inserting in lieu thereof “twenty-one metres”.

s. 65 (6),
amended

- (5) Subsection 6 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “45 feet 11-11/64 inches” in the third line and inserting in lieu thereof “fourteen metres”.

s. 65 (7),
amended

- (6) Subsection 7 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “41 feet $\frac{1}{8}$ inch” in the first line and inserting in lieu thereof “12.5 metres”.

s. 65 (8),
amended

- (7) Subsection 8 of the said section 65, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “50 feet” in the third line and inserting in lieu thereof “15.25 metres”.

(8) Subsection 9 of the said section 65, as re-enacted by the ^{s. 65 (9).} Statutes of Ontario, 1977, chapter 65, section 2, is amended by striking out “13 feet $7\frac{3}{8}$ inches” in the second line and inserting in lieu thereof “4.15 metres”.

12. Subsection 1 of section 67 of the said Act, as re-enacted by ^{s. 67 (1).} the Statutes of Ontario, 1977, chapter 65, section 1, is amended by striking out “4 feet 10 inches” in the second line and inserting in lieu thereof “1.5 metres”.

13. Subsection 1 of section 70 of the said Act, as re-enacted by ^{s. 70 (1).} the Statutes of Ontario, 1977, chapter 65, section 3, is amended,

(a) in clause *b*, by striking out “pounds” in the second line and inserting in lieu thereof “kilograms”;

(b) in clause *d*, by striking out “pounds” in the second line and inserting in lieu thereof “kilograms”;

(c) in clause *g*, by striking out “39.5 inches” in the second line and inserting in lieu thereof “one metre”;

(d) in clause *h*, by striking out “98.5 inches” in the sixth line and inserting in lieu thereof “2.5 metres”;

(e) in clause *j*, by striking out “pounds” in the second line and inserting in lieu thereof “kilograms”;

(f) in clause *m*, by striking out “39.5 inches” in the third line and inserting in lieu thereof “one metre”;

(g) in clause *n*, by striking out “500 gallons” in the fourth line and inserting in lieu thereof “2.3 kilolitres”;

(h) in clause *o*, by striking out “98.5 inches” in the eighth line and inserting in lieu thereof “2.5 metres”;

(i) in clause *p*, by striking out “39.5 inches” in the sixth line and inserting in lieu thereof “one metre”;
and

(j) in clause *q*, by striking out “78.5 inches in the sixth line and inserting in lieu thereof “two metres”.

14. Subsection 1 of section 71 of the said Act, as re-enacted by ^{s. 71 (1).} the Statutes of Ontario, 1977, chapter 65, section 3, is amended,

- (a) by striking out "5.9 inches" in the second line and inserting in lieu thereof "150 millimetres";
- (b) by striking out "inch" in the third line and inserting in lieu thereof "millimetre";
- (c) by striking out "504 pounds" in the fourth line and inserting in lieu thereof "nine kilograms";
- (d) by striking out "5.9 inches" in the fifth line and inserting in lieu thereof "150 millimetres";
- (e) by striking out "inch" in the sixth line and inserting in lieu thereof "millimetre"; and
- (f) by striking out "616 pounds" in the seventh line and inserting in lieu thereof "eleven kilograms".

s. 72 (1),
amended

15.—(1) Subsection 1 of section 72 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended,

- (a) by striking out "19,800 pounds" in the sixth line and inserting in lieu thereof "9,000 kilograms"; and
- (b) by striking out "22,000 pounds" in the seventh line and inserting in lieu thereof "10,000 kilograms".

s. 72 (2),
amended

(2) Subsection 2 of the said section 72 is amended by striking out "39,600 pounds" in the second and third lines and inserting in lieu thereof "18,000 kilograms".

s. 72 (3),
amended

(3) Subsection 3 of the said section 72 is amended by striking out "59,400 pounds" in the second and third lines and inserting in lieu thereof "27,000 kilograms".

s. 72 (4),
amended

(4) Subsection 4 of the said section 72 is amended by striking out "11,000 pounds" in the third line and inserting in lieu thereof "5,000 kilograms".

s. 74 (2),
amended

16.—(1) Subsection 2 of section 74 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended,

- (a) by striking out "1,000 pounds" in the fourth and fifth lines and inserting in lieu thereof "454 kilograms"; and
- (b) by striking out "140,000 pounds" in the eleventh line and inserting in lieu thereof "63,500 kilograms".

- (2) Subsection 7 of the said section 74 is amended by striking out “1,000 pounds” in the fourth and fifth lines and inserting in lieu thereof “454 kilograms”. s. 74 (7),
amended

17. Section 76 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended, s. 76,
amended

- (a) by striking out “18,000 pounds” in the third line and inserting in lieu thereof “8,200 kilograms”;
- (b) by striking out “7 feet 10 inches” in the fourth line and inserting in lieu thereof “2.4 metres”; and
- (c) by striking out “12,100 pounds” in the fifth line and inserting in lieu thereof “5,500 kilograms”.

18.—(1) Subsection 3 of section 77 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended by striking out “15,400 pounds” in the seventh line and inserting in lieu thereof “7,000 kilograms”. s. 77 (3),
amended

- (2) Subsection 5 of the said section 77 is amended by striking out “11,000 pounds” in the tenth line and inserting in lieu thereof “5,000 kilograms”. s. 77 (5),
amended

- (3) Subsection 6 of the said section 77 is amended by striking out “16,500 pounds” in the tenth line and inserting in lieu thereof “7,500 kilograms”. s. 77 (6),
amended

(4) Subsection 7 of the said section 77 is amended, s. 77 (7),
amended

- (a) by striking out “2,200 pounds” in the third line and inserting in lieu thereof “1,000 kilograms”;
- (b) by striking out “inch” in the eighth line and inserting in lieu thereof “millimetre”; and
- (c) by striking out “280 pounds” in the eighth and ninth lines and inserting in lieu thereof “five kilograms”.

19. Section 79 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 65, section 3, is amended, s. 79,
amended

- (a) in clause a,

- (i) by striking out “\$0.91 per hundredweight” in the first line and inserting in lieu thereof “\$2 per 100 kilograms”, and

- (ii) by striking out “11,000 pounds” in the fourth line and inserting in lieu thereof “5,000 kilograms”;

(b) in clause *b*,

- (i) by striking out “\$1.82 per hundredweight” in the first line and inserting in lieu thereof “\$4 per 100 kilograms”,
- (ii) by striking out “11,000 pounds” in the third and fourth lines and inserting in lieu thereof “5,000 kilograms”, and
- (iii) by striking out “16,500 pounds” in the fourth line and inserting in lieu thereof “7,500 kilograms”;

(c) in clause *c*,

- (i) by striking out “\$2.73 per hundredweight” in the first line and inserting in lieu thereof “\$6 per 100 kilograms”,
- (ii) by striking out “16,500 pounds” in the third and fourth lines and inserting in lieu thereof “7,500 kilograms”, and
- (iii) by striking out “22,000 pounds” in the fourth line and inserting in lieu thereof “10,000 kilograms”;

(d) in clause *d*,

- (i) by striking out “\$3.64 per hundredweight” in the first line and inserting in lieu thereof “\$8 per 100 kilograms”,
- (ii) by striking out “22,000 pounds” in the third and fourth lines and inserting in lieu thereof “10,000 kilograms”, and
- (iii) by striking out “33,000 pounds” in the fourth line and inserting in lieu thereof “15,000 kilograms”;

(e) in clause *e*,

- (i) by striking out “\$4.55 per hundredweight” in the first line and inserting in lieu thereof “\$10 per 100 kilograms”, and

- (ii) by striking out "33,000 pounds" in the third and fourth lines and inserting in lieu thereof "15,000 kilograms".

- 20.** Tables 1 and 2 to Part VII of the said Act, as re-enacted by ^{Part VII,} the Statutes of Ontario, 1977, chapter 65, section 3, and ^{Tables 1-5,} re-enacted Tables 3, 4 and 5 to the said Part VII, as enacted by the said section 3, are repealed and the following substituted therefor:

TABLE 1

MAXIMUM ALLOWABLE WEIGHT FOR DUAL AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Metres)	Maximum Allowable Weight (Kilograms)
1.0 to less than 1.2	15,400
1.2 to less than 1.3	16,800
1.3 to less than 1.4	17,200
1.4 to less than 1.5	17,500
1.5 to less than 1.6	17,900
1.6 to less than 1.7	18,300
1.7 to less than 1.8	18,700
1.8 or more	19,100

TABLE 2
MAXIMUM ALLOWABLE WEIGHT FOR
TRIPLE AXLE

COLUMN ONE	COLUMN TWO
Axle Spacing (Metres)	Maximum Allowable Weight (Kilograms)
2.0 to less than 2.4	19,500
2.4 to less than 2.8	21,300
2.8 to less than 2.9	21,700
2.9 to less than 3.0	22,000
3.0 to less than 3.1	22,400
3.1 to less than 3.2	22,700
3.2 to less than 3.3	23,100
3.3 to less than 3.4	23,400
3.4 to less than 3.5	23,800
3.5 to less than 3.6	24,100
3.6 to less than 3.7	24,400
3.7 to less than 3.8	24,800
3.8 to less than 3.9	25,100
3.9 to less than 4.0	25,500
4.0 to less than 4.1	25,800
4.1 to less than 4.2	26,200
4.2 to less than 4.3	26,500
4.3 to less than 4.4	26,900
4.4 to less than 4.5	27,200
4.5 to less than 4.6	27,600
4.6 to less than 4.7	27,900
4.7 to less than 4.8	28,300
4.8 or more	28,600

TABLE 3
MAXIMUM ALLOWABLE WEIGHT FOR
TWO AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Metres)	Maximum Allowable Weight (Kilograms)
1.0 to less than 1.2	15,000
1.2 to less than 1.3	16,300
1.3 to less than 1.4	16,700
1.4 to less than 1.5	17,000
1.5 to less than 1.6	17,400
1.6 to less than 1.7	17,800
1.7 to less than 1.8	18,200
1.8 to less than 1.9	18,600
1.9 to less than 2.0	19,100

TABLE 4

MAXIMUM ALLOWABLE WEIGHT FOR
THREE AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Metres)	Maximum Allowable Weight (Kilograms)
2.0 to less than 2.4	19,000
2.4 to less than 2.6	20,400
2.6 to less than 2.8	21,000
2.8 to less than 2.9	21,400
2.9 to less than 3.0	21,700
3.0 to less than 3.1	22,000
3.1 to less than 3.2	22,400
3.2 to less than 3.3	22,700
3.3 to less than 3.4	23,000
3.4 to less than 3.5	23,400
3.5 to less than 3.6	23,700
3.6 to less than 3.7	24,000
3.7 to less than 3.8	24,400
3.8 to less than 3.9	24,700
3.9 to less than 4.0	25,000
4.0 to less than 4.1	25,400
4.1 to less than 4.2	25,700
4.2 to less than 4.3	26,000
4.3 to less than 4.4	26,400
4.4 to less than 4.5	26,700
4.5 to less than 4.6	27,000
4.6 to less than 4.7	27,400
4.7 to less than 4.8	27,700
4.8 to less than 4.9	28,000
4.9 to less than 5.0	28,300
5.0 or more	28,600

TABLE 5
MAXIMUM ALLOWABLE WEIGHT FOR
FOUR AXLE GROUP

COLUMN ONE	COLUMN TWO
Axle Group Spacing (Metres)	Maximum Allowable Weight (Kilograms)
Less than 3.6	23,500
3.6 to less than 3.7	23,900
3.7 to less than 3.8	24,200
3.8 to less than 3.9	24,600
3.9 to less than 4.0	24,900
4.0 to less than 4.1	25,300
4.1 to less than 4.2	25,700
4.2 to less than 4.3	26,000
4.3 to less than 4.4	26,400
4.4 to less than 4.5	26,700
4.5 to less than 4.6	27,100
4.6 to less than 4.7	27,500
4.7 to less than 4.8	27,800
4.8 to less than 4.9	28,200
4.9 to less than 5.0	28,500
5.0 to less than 5.1	28,900
5.1 to less than 5.2	29,300
5.2 to less than 5.3	29,600
5.3 to less than 5.4	30,000
5.4 to less than 5.5	30,300
5.5 to less than 5.6	30,700
5.6 to less than 5.7	31,100
5.7 to less than 5.8	31,400
5.8 to less than 5.9	31,800
5.9 to less than 6.0	32,100
6.0 to less than 6.1	32,500
6.1 to less than 6.2	32,900
6.2 to less than 6.3	33,200
6.3 to less than 6.4	33,600
6.4 to less than 6.5	33,900
6.5 to less than 6.6	34,300
6.6 to less than 6.7	34,700
6.7 to less than 6.8	35,000
6.8 to less than 6.9	35,400
6.9 to less than 7.0	35,700
7.0 to less than 7.1	36,100
7.1 to less than 7.2	36,500
7.2 to less than 7.3	36,800
7.3 to less than 7.4	37,200
7.4 to less than 7.5	37,600
7.5 or more	38,000

Commence-
ment

21. This Act comes into force on the 1st day of April, 1978.

Short title

22. The short title of this Act is *The Highway Traffic Amendment Act, 1978*.

BILL 23

An Act to amend
The Highway Traffic Act

1st Reading

March 6th, 1978

2nd Reading

March 28th, 1978

3rd Reading

March 28th, 1978

THE HON. J. W. SNOW
Minister of Transportation and
Communications

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Government
Publication

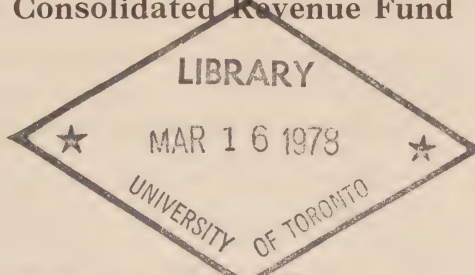
2L **BILL/24**

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

2 Legislative
Assembly

**An Act to authorize the Raising of Money on
the Credit of the Consolidated Revenue Fund**



THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill authorizes the borrowing of moneys not otherwise authorized by any other Act.

The principal borrowings authorized under *The Loan Act* in recent years have been:

1. Borrowings from the Canada Pension Plan.
2. The Ontario Treasury Bill program.
3. CMHC Waste Control Loans.
4. Federal-Provincial-Municipal Loan programs.

The authorization in the Bill of \$1.1 billion is intended to cover the following estimated borrowing requirements:

1. Canada Pension Plan borrowings through to May, 1979.
2. Repayment of Ontario debt maturities.
3. Temporary in-year financing, as necessary.

BILL 24

1978

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by *The Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$1,100,000,000.

Loans up to
\$1,100,000,000
R.S.O. 1970,
c. 166

(2) The sum or sums of money authorized to be raised by subsection 1 for the purposes mentioned therein shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is *The Ontario Loan Act*.

Short title
1978.

BILL 24

An Act to authorize the Raising of
Money on the Credit of the Consolidated
Revenue Fund

1st Reading

March 7th, 1978

2nd Reading

3rd Reading

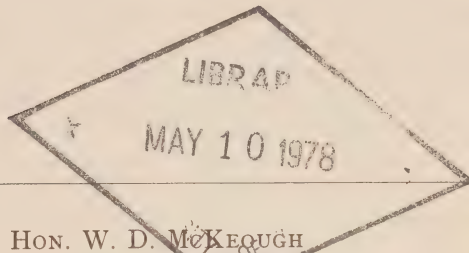
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to authorize the Raising of Money on
the Credit of the Consolidated Revenue Fund**



THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

BILL 24

1978

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by *The Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$1,100,000,000.

Loans up to
\$1,100,000,000

R.S.O. 1970,
c. 166

(2) The sum or sums of money authorized to be raised by subsection 1 for the purposes mentioned therein shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is *The Ontario Loan Act*, 1978.

Short title

An Act to authorize the Raising of
Money on the Credit of the Consolidated
Revenue Fund

1st Reading

March 7th, 1978

2nd Reading

April 25th, 1978

3rd Reading

April 25th, 1978

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

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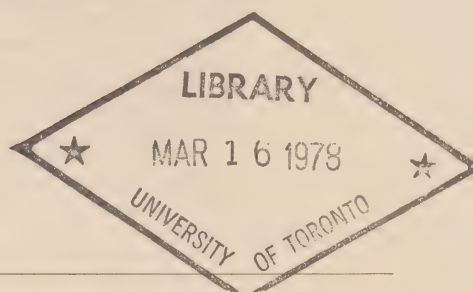
322 BILL 25

Government
Publications
Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative
Assembly

An Act to amend The Tobacco Tax Act



THE HON. L. MAECK
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. This amendment increases the tax on cigarettes, cigars and other tobacco products. For example, on a package of 20 cigarettes, the tax is increased from 19.2¢ to 22¢. The same proportionate increase in tax will apply to packages containing more or less than 20 cigarettes.

On pipe tobacco and tobacco products, other than cigars and cigarettes, the tax increases from thirty-five one-hundredths of 1 cent per gram to four-tenths of 1 cent for each gram or part thereof.

For each cigar the retail price of which (before tax) is 7 cents or less, the tax remains at 2 cents for each cigar.

For each cigar the retail price of which (before tax) is more than 7 cents but not more than 10 cents, the tax is increased from 4 cents to 5 cents.

For each cigar the retail price of which (before tax) is more than 10 cents but not more than 15 cents, the tax is increased from 6 cents to 7 cents.

For each cigar the retail price of which (before tax) is more than 15 cents but not more than 90 cents, the tax on the first 15 cents of the retail price increases from 6 cents to 7 cents, and the tax on each additional 5 cents or part thereof of the retail price remains at 2 cents to a maximum of 39 cents tax on each cigar the retail price of which is more than 90 cents.

BILL 25

1978

An Act to amend The Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Tobacco Tax Act*, being ^{s. 2 (1), re-enacted} chapter 463 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 11, section 1, is repealed and the following substituted therefor:

(1) Every consumer shall pay to Her Majesty in right of ^{Tax on consumer} Ontario a tax computed as follows:

- (a) one and one-tenth cents on every cigarette purchased by him;
- (b) four-tenths of 1 cent on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
- (c) 2 cents on every cigar purchased by him for a price at retail of not more than 7 cents;
- (d) 5 cents on every cigar purchased by him for a price at retail of more than 7 cents but not more than 10 cents;
- (e) 7 cents on every cigar purchased by him for a price at retail of more than 10 cents but not more than 15 cents, and thereafter, an additional 2 cents for each additional 5 cents or part thereof that the price at retail of a cigar purchased by him exceeds 15 cents and does not exceed 90 cents; and
- (f) 39 cents on every cigar purchased by him for a price at retail of more than 90 cents.

s. 8 (3) (a),
re-enacted

- 2.** Clause *a* of subsection 3 of section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 11, section 3, is repealed and the following substituted therefor:

(a) \$1,000; or

.

s. 9 (1) (d),
amended

- 3.** Clause *d* of subsection 1 of section 9 of the said Act is amended by striking out “an audit of” in the first line and inserting in lieu thereof “an audit or”.

Commence-
ment

- 4.—**(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

- (2) Section 1 shall be deemed to have come into force on the 8th day of March, 1978.

Idem

- (3) Section 2 comes into force on the 1st day of April, 1978.

Short title

- 5.** The short title of this Act is *The Tobacco Tax Amendment Act, 1978*.

SECTION 2. The amendment increases from \$700 to \$1,000 the maximum annual compensation that may be paid to collectors who, as agents of the Minister, collect the tax imposed by the Act. The increase applies with respect to tax collected on and after April 1, 1978.

SECTION 3. The amendment corrects a typographical error in the statute.

An Act to amend
The Tobacco Tax Act

1st Reading

March 7th, 1978

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

(Government Bill)

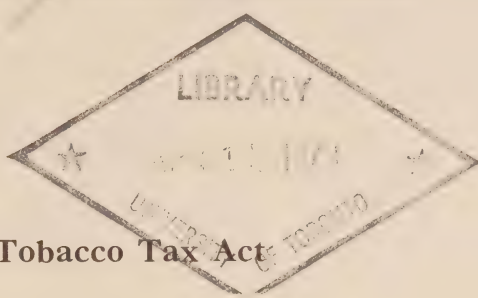
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34 BILL 25

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2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978/

Legislative Council
20



An Act to amend The Tobacco Tax Act

THE HON. L. MAECK
Minister of Revenue

BILL 25

1978

An Act to amend The Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Tobacco Tax Act*, being ^{s. 2 (1), re-enacted} chapter 463 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1977, chapter 11, section 1, is repealed and the following substituted therefor:

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows: ^{Tax on consumer}

- (a) one and one-tenth cents on every cigarette purchased by him;
- (b) four-tenths of 1 cent on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
- (c) 2 cents on every cigar purchased by him for a price at retail of not more than 7 cents;
- (d) 5 cents on every cigar purchased by him for a price at retail of more than 7 cents but not more than 10 cents;
- (e) 7 cents on every cigar purchased by him for a price at retail of more than 10 cents but not more than 15 cents, and thereafter, an additional 2 cents for each additional 5 cents or part thereof that the price at retail of a cigar purchased by him exceeds 15 cents and does not exceed 90 cents; and
- (f) 39 cents on every cigar purchased by him for a price at retail of more than 90 cents.

s. 8 (3) (a),
re-enacted

- 2.** Clause *a* of subsection 3 of section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 11, section 3, is repealed and the following substituted therefor:

(a) \$1,000; or

s. 9 (1) (d),
amended

- 3.** Clause *d* of subsection 1 of section 9 of the said Act is amended by striking out "an audit of" in the first line and inserting in lieu thereof "an audit or".

Commence-
ment

- 4.**—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

- (2) Section 1 shall be deemed to have come into force on the 8th day of March, 1978.

Idem

- (3) Section 2 comes into force on the 1st day of April, 1978.

Short title

- 5.** The short title of this Act is *The Tobacco Tax Amendment Act, 1978*.

An Act to amend
The Tobacco Tax Act

1st Reading

March 7th, 1978

2nd Reading

March 28th, 1978

3rd Reading

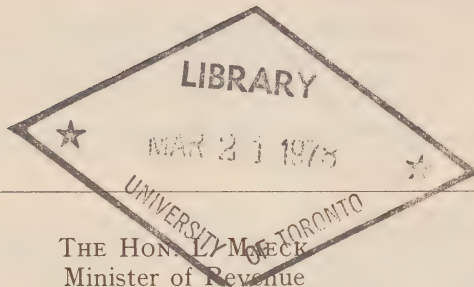
March 28th, 1978

THE HON. L. MAECK
Minister of Revenue

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act to amend The Income Tax Act



THE HON. LYNDEN M. MACK
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. The amendment provides that the rate of Ontario income tax of 44 per cent of basic federal tax, which first became applicable in the 1977 taxation year, will also apply to the 1978 taxation year. The clause to be re-enacted now reads:

- (i) *44 per cent in respect of the 1977 taxation year.*

SECTION 2.—Subsection 1. The words to be deleted by the amendment will have the effect of restricting to \$25 the occupancy cost that can be claimed by any principal taxpayer in a taxation year for the part of the year that he or she resides in a prescribed students' residence, whether or not the principal taxpayer is a full-time student. The restriction to \$25 relates to the property tax credit claim that may be made by an individual, and the students' residences that are prescribed are those for which full property taxes are not paid to the municipality where the residence is located. The effect of the amendment is that those who occupy a students' residence and are not students will be restricted to the same claim for property tax credits as are the student occupants of the residence.

Section 6b (3), (showing underlined the words to be deleted) as it now reads is set out below:

- (3) *Where, during the taxation year, the principal residence of a principal taxpayer who is a full-time student at a college, university or school of nursing is in a students' residence that is prescribed in the regulations, the occupancy cost for every principal taxpayer so resident shall be deemed to be \$25 for that portion of the taxation year during which a prescribed students' residence was the principal residence of the principal taxpayer.*

Subsection 2. The amendment to subsection 11 of section 6b of the Act provides the same four year period for claiming tax credits as applies to claims for refunds of federal and Ontario income tax. Section 6b (11), (showing underlined the words to be replaced) as it now reads is set out below:

- (11) *Where it is established to the Minister's satisfaction that, in respect of a particular taxation year, an individual was entitled to a deduction under subsection 2 exceeding the amount of the deduction allowed to him under subsection 2 for that taxation year, the amount of such excess (hereinafter called the "additional deduction") may be deducted from the individual's tax otherwise payable under this Act that is payable at the time of or next after the establishing of the amount of the additional deduction, and if the amount of the additional deduction, together with the amount of any deduction under subsection 2 to which the individual is then entitled, exceeds the tax otherwise payable under this Act by the individual at the time of or next after the establishing of the amount of the additional deduction, the amount of such excess shall be paid to the individual by the Treasurer in accordance with subsection 5, provided that no claim to establish an additional deduction may be made after four years from the day of mailing of a notice of assessment of tax payable under this Act for the particular taxation year with respect to which the additional deduction is sought to be established or from the day of mailing of a notice that no tax under this Act is payable for such particular taxation year.*

SECTION 3. This amendment is required under the terms of the Income Tax Collection Agreement between Canada and Ontario to provide uniformity between the Ontario and federal statutes. The amendment reflects a change made to section 163 of the Federal Act in December of 1977. The amendment clarifies that the penalty for intentionally understating the amount of income tax payable applies whether or not the taxpayer declared any tax to be payable in the return that he filed.

BILL 26

1978

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *i* of subsection 3 of section 3 of *The Income Tax Act*,
being chapter 217 of the Revised Statutes of Ontario, 1970,
as enacted by the Statutes of Ontario, 1977, chapter 6, section 1,
is repealed and the following substituted therefor:

s. 3 (3) (i),
re-enacted

(i) 44 per cent in respect of the 1977 and 1978 taxation years.

- 2.—(1) Subsection 3 of section 6*b* of the said Act, as re-enacted
by the Statutes of Ontario, 1972, chapter 146, section 2,
is amended by striking out “who is a full-time student
at a college, university or school of nursing” in the second
and third lines.

s. 6*b* (3),
amended

- (2) Subsection 11 of the said section 6*b*, as enacted by the
Statutes of Ontario, 1974, chapter 91, section 2, is
amended by striking out all the words after “subsection 5”
in the sixteenth line and inserting in lieu thereof “pro-
vided that no claim to establish a deduction or an addi-
tional deduction under this section may be made after
four years from the end of the particular taxation year
with respect to which a deduction under subsection 2
could first have been made”.

s. 6*b* (11),
amended

3. Subsection 1 of section 17 of the said Act is repealed and
the following substituted therefor:

s. 17 (1),
re-enacted

(1) Every person who, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this section referred to as a “false statement”) in a return, certificate, statement or answer (in this section referred to as a “return”)

Statements
or omissions
in return

filed or made in respect of a taxation year as required by or under this Act or a regulation, is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by him under this Act if his taxable income for the year were computed by adding to the taxable income reported by him in his return for the year that portion of his understatement of income for the year that is reasonably attributable to the false statement,

exceeds,

- (b) the tax for the year that would have been payable by him under this Act had his tax payable for the year been assessed on the basis of the information provided in his return for the year.

Interpre-
tation

(1a) For the purposes of subsection 1, the taxable income reported by a person in his return for a taxation year shall be deemed not to be less than nil and the "understatement of income for a year" of a person has the meaning assigned to that expression in subsection 2.1 of section 163 of the Federal Act.

s. 52 (8) (b),
amended

4. Clause *b* of subsection 8 of section 52 of the said Act is amended by striking out "section" in the second line and inserting in lieu thereof "subsection".

1977,
c. 6, s. 5,
re-enacted

5. Section 5 of *The Income Tax Amendment Act, 1977*, being chapter 6, is repealed and the following substituted therefor:

Commence-
ment

5.—(1) This Act, except subsection 3 of section 1, shall be deemed to have come into force on the 1st day of January, 1977.

Idem

(2) Subsection 3 of section 1 shall be deemed to have come into force on the 1st day of January, 1976 and to apply to the 1976 and subsequent taxation years.

Commence-
ment

- 6.—(1) This Act, except sections 1, 2 and 5, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 and subsection 1 of section 2 shall be deemed to have come into force on the 1st day of January, 1978.

Idem

(3) Subsection 2 of section 2 and section 5 shall be deemed to have come into force on the 1st day of January, 1977.

Short title

7. The short title of this Act is *The Income Tax Amendment Act, 1978*.

SECTION 4. The amendment corrects an erroneous reference in section 52 of the Act. Section 52 (8) (b), prior to this amendment, reads:

(b) shall be the amount calculated by the Minister to be the amount required to be paid under section 4.

SECTION 5. The amendment corrects the application date of the amendment made in 1977 to the method of computing the foreign tax credit for an Ontario resident. To maintain consistency with the *Income Tax Act* (Canada), the amendment must apply to the 1976 and subsequent taxation years and not, as now is the case, only to the 1977 and subsequent taxation years.

An Act to amend
The Income Tax Act

1st Reading

March 7th, 1978

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

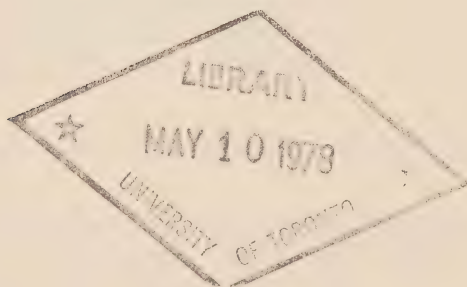
(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly
2

An Act to amend The Income Tax Act

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *i* of subsection 3 of section 3 of *The Income Tax Act*,<sup>s. 3 (3) (i),
re-enacted</sup> being chapter 217 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1977, chapter 6, section 1, is repealed and the following substituted therefor:
 - (i) 44 per cent in respect of the 1977 and 1978 taxation years.
- 2.—(1) Subsection 3 of section 6*b* of the said Act, as re-enacted<sup>s. 6*b* (3),
amended</sup> by the Statutes of Ontario, 1972, chapter 146, section 2, is amended by striking out “who is a full-time student at a college, university or school of nursing” in the second and third lines.
 - (2) Subsection 11 of the said section 6*b*, as enacted by the<sup>s. 6*b* (11),
amended</sup> Statutes of Ontario, 1974, chapter 91, section 2, is amended by striking out all the words after “subsection 5” in the sixteenth line and inserting in lieu thereof “provided that no claim to establish a deduction or an additional deduction under this section may be made after four years from the end of the particular taxation year with respect to which a deduction under subsection 2 could first have been made”.
3. Subsection 1 of section 17 of the said Act is repealed and<sup>s. 17 (1),
re-enacted</sup> the following substituted therefor:
 - (1) Every person who, knowingly or under circumstances<sup>Statements
or omissions
in return</sup> amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this section referred to as a “false statement”) in a return, certificate, statement or answer (in this section referred to as a “return”)

filed or made in respect of a taxation year as required by or under this Act or a regulation, is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by him under this Act if his taxable income for the year were computed by adding to the taxable income reported by him in his return for the year that portion of his understatement of income for the year that is reasonably attributable to the false statement,

exceeds,

- (b) the tax for the year that would have been payable by him under this Act had his tax payable for the year been assessed on the basis of the information provided in his return for the year.

Interpre-
tation

(1a) For the purposes of subsection 1, the taxable income reported by a person in his return for a taxation year shall be deemed not to be less than nil and the "understatement of income for a year" of a person has the meaning assigned to that expression in subsection 2.1 of section 163 of the Federal Act.

s. 52 (8) (b),
amended

4. Clause *b* of subsection 8 of section 52 of the said Act is amended by striking out "section" in the second line and inserting in lieu thereof "subsection".

1977.
c. 6, s. 5,
re-enacted

5. Section 5 of *The Income Tax Amendment Act, 1977*, being chapter 6, is repealed and the following substituted therefor:

Commence-
ment

5.—(1) This Act, except subsection 3 of section 1, shall be deemed to have come into force on the 1st day of January, 1977.

Idem

(2) Subsection 3 of section 1 shall be deemed to have come into force on the 1st day of January, 1976 and to apply to the 1976 and subsequent taxation years.

Commence-
ment

- 6.—(1) This Act, except sections 1, 2 and 5, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 and subsection 1 of section 2 shall be deemed to have come into force on the 1st day of January, 1978.

Idem

(3) Subsection 2 of section 2 and section 5 shall be deemed to have come into force on the 1st day of January, 1977.

Short title

7. The short title of this Act is *The Income Tax Amendment Act, 1978*.

An Act to amend
The Income Tax Act

1st Reading

March 7th, 1978

2nd Reading

April 18th, 1978

3rd Reading

April 18th, 1978

THE HON. L. MAECK
Minister of Revenue

240
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BSC

316 BILL/27

Government
Publications
Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

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★ MAR 21 1978
An Act to amend The Retail Sales Tax Act

THE HON. L. MAECK
Minister of Revenue

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL

The Bill enacts proposals in the Treasurer's Budget,

- (a) to repeal the exemption presently available for railway rolling stock and repairs thereto;
- (b) to extend the thermal insulation and energy conservation exemption to cover storm windows and storm doors; and
- (c) to exempt from tax the rental price of rooms in hotels, motels, etc., and the price of meals sold with the rental of a room on "the American plan", if the meal is served or the room occupied during the period commencing March 8th, 1978 and ending December 31st, 1979.

In addition, the Bill proposes amendments to clarify the application of the Act to the consumption of catalogues, price lists and promotional material given away to encourage sales or the use of services provided by the distributor.

SECTION 1. Subsections 1, 2, 4, 5 and 6 deal with the application of the Act to property or services that are given away to encourage the use of a business enterprise or product. Subsection 4 enacts the definition of "promotional distribution", and defines a "promotional distributor" to be a person resident in, or carrying on business in, Ontario who provides to others in Ontario goods or services for less than their full fair value or full price of admission, and does so as a "promotional distribution". Subsection 5 provides that "purchaser" on whom tax is imposed by the Act includes a promotional distributor to the extent that the value of the goods or services he distributes exceeds what the recipient is required to pay for receiving them. Subsections 1, 2 and 6 amend the definition of "admission", "consumption" and "sale" so that they will include promotional distributions.

Subsection 3 of section 1 amends the definition of "fair value", which is the basis on which tax under the Act is imposed, to make it clear that tax is payable on mailing, delivery or handling charges charged by a vendor to a purchaser on the sale of merchandise. This amendment will provide equality of treatment whether such charges are shown separately by the vendor or are simply borne by him as part of the cost of sales reflected in his selling price.

BILL 27

1978

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 1 of section 1 of *The Retail Sales Tax Act*, s. 1, par. 1, amended being chapter 415 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 23, section 1, is amended by adding at the end thereof “and any entry that is provided to a place of amusement as a promotional distribution”.
- (2) Paragraph 3 of the said section 1 is amended by adding s. 1, par. 3, amended at the end thereof “and includes the provision by way of promotional distribution of any tangible personal property or taxable service”.
- (3) Clause *b* of paragraph 4 of the said section 1 is repealed s. 1, par. 4 (b), re-enacted and the following substituted therefor:
 - (*b*) the cost of, or charges for, customs, excise, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price.
- (4) The said section 1, as amended by the Statutes of s. 1, amended Ontario, 1973, chapter 23, section 1, 1975, chapter 9, section 1, 1976, chapter 23, section 1, 1976, chapter 82, section 1 and 1977, chapter 13, section 1, is further amended by adding thereto the following paragraphs:
 - 8a. “promotional distribution” means the provision by any person to others of any tangible personal property, taxable service or admission to a place of amusement (other than any provision thereof that is prescribed by the Minister to be excluded

from the application of this paragraph) that is, in the opinion of the Minister, provided for any one or more of the following purposes:

- (a) To promote or encourage attendance at, or patronage of, any place of amusement, business, undertaking or enterprise.
- (b) To describe, or to promote or encourage the purchase, consumption or use of, any goods, wares, services or property of any kind.
- (c) To furnish to any person any directory, listing or compilation of persons, places, prices, services, commodities, places of business or users of any service.
- (d) For any function, use or purpose prescribed by the Minister to be a promotional distribution.

8b. "promotional distributor" means any person who is a resident of, or carries on business in, Ontario and who, by way of promotional distribution, provides or causes to be provided to any person in Ontario any tangible personal property, taxable service or admission to a place of amusement the full fair value or full price of admission of which is not specifically charged to, and required to be paid by, the person to whom such tangible personal property, taxable service or admission to a place of amusement is provided.

s. 1, par. 9,
amended

- (5) Paragraph 9 of the said section 1, as re-enacted by the Statutes of Ontario, 1976, chapter 82, section 1, is amended by adding at the end thereof "and includes also a promotional distributor to the extent that the full fair value or full price of admission of any tangible personal property, taxable service or admission to a place of amusement provided by way of promotional distribution exceeds any payment specifically made therefor by the person to whom such property, service or admission is so provided".

s. 1, par. 13,
amended

- (6) Paragraph 13 of the said section 1, as amended by the Statutes of Ontario, 1975, chapter 9, section 1, 1976, chapter 23, section 1 and 1976, chapter 82, section 1, is further amended by adding thereto the following clause:

SECTION 2.—Subsection 1. This amendment adds to the exemption for thermal insulation and energy conservation materials an exemption for storm doors and storm windows.

Subsection 2. The amendment repeals paragraph 41 of subsection 1 of section 5 of the Act which exempted from tax "railway rolling stock and repairs thereto". From March 8th, 1978, the acquisition of railway rolling stock and of parts to repair such rolling stock will be taxable.

The new paragraphs 41 and 41a enacted in place of the repealed paragraph provide an exemption for transient accommodation and prepared meals sold under the American plan if the accommodation is occupied or the meal served in the period March 8th, 1978 to and including December 31st, 1979. "Transient accommodation" is defined by the Act to include the letting of lodging in hotels, motels, etc., for a continuous period of less than one month.

Subsection 3. The amendment ensures that the recipient of a promotional distribution is exempt from tax under the Act on the amount by which the value of the goods or services that he receives exceeds anything that he is required to pay to receive the promotional distribution. The recipient will be liable to tax on any amount paid for the promotional distribution, and the person who makes the promotional distribution will be taxable on the amount by which the value of the goods or services distributed exceeds what the recipient is required to pay for them.

The clarification of the Act with respect to its application to promotional distributions is necessary because of a decision earlier this year of the Supreme Court of Canada and the interpretation given in that decision to the analogous provisions of a statute of the Province of New Brunswick. The amendments proposed in this Bill with respect to promotional distributions are intended to preserve the application of the Act to such transactions, and for that reason the amendments are retroactive to January 1st, 1975 in order to maintain the interpretation of the Act on the basis of which it had been administered in previous years.

- (h) the provision by way of promotional distribution of any tangible personal property or taxable service,

2.—(1) Paragraph 24b of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 13, section 4, is amended by adding thereto the following clause:

s. 5 (1), par. 24b,
amended

- (aa) storm windows and storm doors, as defined by the Minister.

(2) Paragraph 41 of subsection 1 of the said section 5 is repealed and the following substituted therefor:

s. 5 (1), par. 41,
re-enacted

41. the occupancy of transient accommodation during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1979, provided that occupancy for any period of twenty-four hours or less that includes any part of the 7th day of March, 1978 is not entitled to the exemption conferred by this paragraph, and occupancy for any period of twenty-four hours or less that includes any part of the 31st day of December, 1979 is entitled to the exemption conferred by this paragraph;

41a. prepared meals served during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1979, if such prepared meals are provided together with transient accommodation in the said period for one charge for both meals and accommodation under the system commonly known as "the American plan".

(3) The said section 5, as amended by the Statutes of Ontario, 1972, chapter 21, section 1, 1973, chapter 23, section 4, 1974, chapter 7, section 2, 1975, chapter 9, section 4, 1976, chapter 23, section 3, 1976, chapter 82, section 3 and 1977, chapter 13, section 4, is further amended by adding thereto the following subsection:

s. 5,
amended

(4) A person in Ontario to whom any tangible personal property, taxable service or admission to a place of amusement is provided by way of promotional distribution is, with respect to his consumption or use thereof or with respect to the price of admission thereof, exempt from the tax imposed by this Act on the amount by which the full

Exemption
for recipient
of
promotional
distribution

fair value or full price of admission thereof exceeds any payment that is made by him solely and specifically for the receipt by him of the tangible personal property, taxable service or admission to a place of amusement so provided and that is not referable to the purchase, consumption or use by him of any other property, right or service.

Commence-
ment

3.—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1, 2, 4, 5 and 6 of section 1 and subsection 3 of section 2 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

(3) Subsection 3 of section 1 and subsections 1 and 2 of section 2 shall be deemed to have come into force on the 8th day of March, 1978.

Short title

4. The short title of this Act is *The Retail Sales Tax Amendment Act, 1978*.

An Act to amend
The Retail Sales Tax Act

1st Reading

March 7th, 1978

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

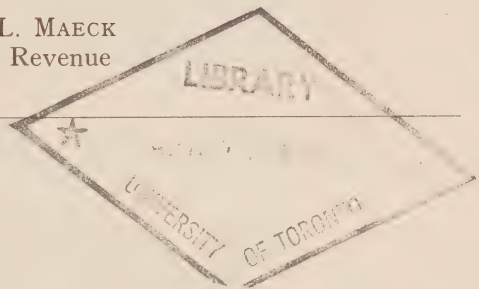
(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978 /

Legislative Assembly

An Act to amend The Retail Sales Tax Act

THE HON. L. MAECK
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 27

1978

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 1 of section 1 of *The Retail Sales Tax Act*, s. 1, par. 1, amended being chapter 415 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 23, section 1, is amended by adding at the end thereof “and any entry that is provided to a place of amusement as a promotional distribution”.
- (2) Paragraph 3 of the said section 1 is amended by adding s. 1, par. 3, amended at the end thereof “and includes the provision by way of promotional distribution of any tangible personal property or taxable service”.
- (3) Clause *b* of paragraph 4 of the said section 1 is repealed s. 1, par. 4 (b), re-enacted and the following substituted therefor:
 - (b) the cost of, or charges for, customs, excise, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price.
- (4) The said section 1, as amended by the Statutes of s. 1, amended Ontario, 1973, chapter 23, section 1, 1975, chapter 9, section 1, 1976, chapter 23, section 1, 1976, chapter 82, section 1 and 1977, chapter 13, section 1, is further amended by adding thereto the following paragraphs:
 - 8a. “promotional distribution” means the provision by any person to others of any tangible personal property, taxable service or admission to a place of amusement (other than any provision thereof that is prescribed by the Minister to be excluded

from the application of this paragraph) that is, in the opinion of the Minister, provided for any one or more of the following purposes:

- (a) To promote or encourage attendance at, or patronage of, any place of amusement, business, undertaking or enterprise.
- (b) To describe, or to promote or encourage the purchase, consumption or use of, any goods, wares, services or property of any kind.
- (c) To furnish to any person any directory, listing or compilation of persons, places, prices, services, commodities, places of business or users of any service.
- (d) For any function, use or purpose prescribed by the Minister to be a promotional distribution.

8b. "promotional distributor" means any person who is a resident of, or carries on business in, Ontario and who, by way of promotional distribution, provides or causes to be provided to any person in Ontario any tangible personal property, taxable service or admission to a place of amusement the full fair value or full price of admission of which is not specifically charged to, and required to be paid by, the person to whom such tangible personal property, taxable service or admission to a place of amusement is provided.

s. 1, par. 9,
amended

- (5) Paragraph 9 of the said section 1, as re-enacted by the Statutes of Ontario, 1976, chapter 82, section 1, is amended by adding at the end thereof "and includes also a promotional distributor to the extent that the full fair value or full price of admission of any tangible personal property, taxable service or admission to a place of amusement provided by way of promotional distribution exceeds any payment specifically made therefor by the person to whom such property, service or admission is so provided".

s. 1, par. 13,
amended

- (6) Paragraph 13 of the said section 1, as amended by the Statutes of Ontario, 1975, chapter 9, section 1, 1976, chapter 23, section 1 and 1976, chapter 82, section 1, is further amended by adding thereto the following clause:

- (h) the provision by way of promotional distribution of any tangible personal property or taxable service,

2.—(1) Paragraph 24*b* of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 13, section 4, is amended by adding thereto the following clause: s. 5 (1), par. 24*b*,
amended

(aa) storm windows and storm doors, as defined by the Minister.

(2) Paragraph 41 of subsection 1 of the said section 5 is repealed and the following substituted therefor: s. 5 (1), par. 41,
re-enacted

41. the occupancy of transient accommodation during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1979, provided that occupancy for any period of twenty-four hours or less that includes any part of the 7th day of March, 1978 is not entitled to the exemption conferred by this paragraph, and occupancy for any period of twenty-four hours or less that includes any part of the 31st day of December, 1979 is entitled to the exemption conferred by this paragraph;

41*a*. prepared meals served during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1979, if such prepared meals are provided together with transient accommodation in the said period for one charge for both meals and accommodation under the system commonly known as "the American plan".

(3) The said section 5, as amended by the Statutes of Ontario, 1972, chapter 21, section 1, 1973, chapter 23, section 4, 1974, chapter 7, section 2, 1975, chapter 9, section 4, 1976, chapter 23, section 3, 1976, chapter 82, section 3 and 1977, chapter 13, section 4, is further amended by adding thereto the following subsection: s. 5,
amended

(4) A person in Ontario to whom any tangible personal property, taxable service or admission to a place of amusement is provided by way of promotional distribution is, with respect to his consumption or use thereof or with respect to the price of admission thereof, exempt from the tax imposed by this Act on the amount by which the full Exemption
for recipient
of
promotional
distribution

fair value or full price of admission thereof exceeds any payment that is made by him solely and specifically for the receipt by him of the tangible personal property, taxable service or admission to a place of amusement so provided and that is not referable to the purchase, consumption or use by him of any other property, right or service.

Commence-
ment

3.—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1, 2, 4, 5 and 6 of section 1 and subsection 3 of section 2 shall be deemed to have come into force on the 1st day of January, 1975.

Idem

(3) Subsection 3 of section 1 and subsections 1 and 2 of section 2 shall be deemed to have come into force on the 8th day of March, 1978.

Short title

4. The short title of this Act is *The Retail Sales Tax Amendment Act, 1978*.

An Act to amend
The Retail Sales Tax Act

1st Reading

March 7th, 1978

2nd Reading

March 28th, 1978

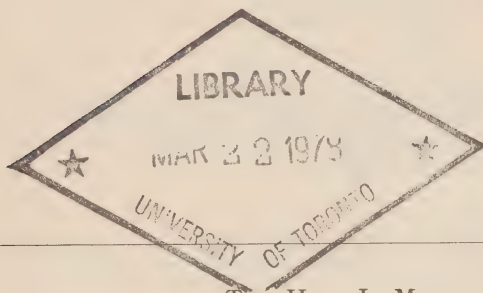
3rd Reading

March 28th, 1978

THE HON. L. MAECK
Minister of Revenue

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to amend
The Corporations Tax Act, 1972**



THE HON. L. MAECK
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. This section amends section 1 of the Act in order to clarify the application of the *Income Tax Act* (Canada) for the purposes of the Act.

Subsection 1 amends clause *d* of subsection 2 of section 1 of the Act by adding a reference therein to section 248 of the *Income Tax Act* (Canada) to make it clear that the definitions contained in that section of that Act are applicable for the purposes of this Act.

Subsection 2 amends subsection 6 of section 1 of the Act in order to make it clear that not only sections but also any other provisions (including subsections, subdivisions and divisions) of the *Income Tax Act* (Canada) that are adopted for the purposes of the Act are adopted as amended from time to time.

SECTION 2. This section re-enacts subsection 2 of section 12 of the Act in order to clarify the application of section 3 of the *Income Tax Act* (Canada) for the purposes of the Act. In addition, this section enacts a new subsection 3 to section 12 of the Act in order to make it clear that where a corporation becomes subject to the tax imposed on income under the Act, any amounts deducted or deductible under the *Income Tax Act* (Canada) for previous years will be deemed to have been deducted or deductible for those years for the purposes of the Act.

BILL 28

1978

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause iv of clause *d* of subsection 2 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 1, is amended by striking out “section 138” in the third line and inserting in lieu thereof “sections 138 and 248”. s. 1 (2) (d) (iv),
amended

(2) Subsection 6 of the said section 1 is amended by striking out “sections” in the first line and inserting in lieu thereof “provisions”. s. 1 (6),
amended

2. Subsection 2 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 6, is repealed and the following substituted therefor: s. 12 (2),
re-enacted

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph *c* thereof to “subdivision e” shall be deemed to be a reference to Subdivision D of Division B of Part II of this Act, and the reference in the said section to “this Part” shall be deemed to be a reference to Part II of this Act. Interpre-
tation

(3) Subject to subsection 4 of section 14, for the purpose of computing the income and taxable income of a corporation for a taxation year any amount deducted or deductible by the corporation under a provision of the *Income Tax Act* (Canada) in computing its income for a previous taxation year in respect of which the corporation was not subject to the tax imposed by Part II of this Act is deemed, unless otherwise provided in the said Part II, to have been deducted or deductible, as the case may be, under the corresponding provision of this Act in computing its income or taxable income, as the case may be, for that previous taxation year. Corpora-
tion that
becomes
subject to
this Act
R.S.C. 1952,
c. 148

s. 13,
amended

- 3.** Section 13 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 7, is amended by adding thereto the following subsection:

Interpre-
tation

- (2) In the application of the said section 4 for the purposes of this Act, the references therein to "this Part" shall be deemed to be references to Part II of this Act.

s. 14 (4) (a),
amended

- 4.—**(1) Clause *a* of subsection 4 of section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "subsections 7.1 and 10" in the first line and inserting in lieu thereof "subsection 10".

s. 14 (4) (b),
re-enacted

- (2) Clause *b* of subsection 4 of the said section 14 is repealed and the following substituted therefor:

Application
of
R.S.C. 1952,
c. 148,
s. 13 (7.1)

- (b) the reference in subsection 7.1 of the said section 13 to "section 65" shall be deemed to be a reference to the said section 65 and to section 19 of this Act.

s. 15 (4) (c) (i),
repealed

- 5.** Subclause *i* of clause *c* of subsection 4 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed.

s. 18 (2),
re-enacted

- 6.** Subsection 2 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor:

Application
of subs. 1

- (2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at the end of the year or at any time in the immediately following year,

(a) was exempt from tax under any provision of this Part; or

(b) was not resident in Canada and ceased to have a permanent establishment in Canada.

s. 20 (1) (b),
re-enacted

- 7.—**(1) Clause *b* of subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor:

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this subsection or section 19, minus the deductions allowed for the taxation year by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act.

R.S.C. 1952,
c. 148

SECTION 3. This section adds subsection 2 to section 13 of the Act in order to clarify the application of section 4 of the *Income Tax Act* (Canada) for the purposes of this Act.

SECTION 4. Subsections 1 and 2 of this section amend subsection 4 of section 14 in order to parallel the federal treatment of depreciable property for the purchase of which a corporation has received governmental assistance of any kind. Subsection 1 removes from clause *a* of subsection 4 of section 14 of the Act the reference to subsection 7.1 of section 13 of the *Income Tax Act* (Canada), thereby making the said subsection 7.1 applicable for the purposes of the Act. At the same time, subsection 2 repeals clause *b* of subsection 4 of section 14 of the Act, which had been enacted in lieu of subsection 7.1 of section 13 of the *Income Tax Act* (Canada). As a result, governmental assistance in the form of "deductions from tax" (i.e. tax credits) will result in a reduction of the capital cost of the property for the purpose of calculating capital cost allowance.

SECTION 5. This section amends clause *c* of subsection 4 of section 15 of the Act, relating to the determination of the adjusted cost base of property by repealing subclause *i* thereof so that the corresponding federal provision will be applicable. This amendment is complementary to the amendments contained in subsections 1 and 2 of section 4 of the Bill.

SECTION 6. This section amends subsection 2 of section 18 of the Act, relating to reserves to be claimed in respect of the disposition of resource property where the consideration is not due until a subsequent year, in order to parallel the recent amendment to the corresponding section of the *Income Tax Act* (Canada). The amendment clarifies the circumstances in which the reserve will not be allowed. A corporation will now be able to claim the reserve if at the end of the year of the disposition and at all times in the subsequent year it had a permanent establishment in Canada, even if it was not resident in Canada; previously, if at any time in the year of disposition or in the following year the corporation was not resident in Canada, it could not claim the reserve.

SECTION 7. Subsections 1 and 2 amend subsections 1 and 2 of section 20 of the Act, relating to exploration and development expenses, in order to clarify the order of deductions under that section. These amendments make it clear that the other deductions permitted under section 20 of the Act are to be claimed prior to any deduction being claimed under subsections 1 to 3 of section 20. These amendments parallel the recent amendments to the corresponding sections of the *Income Tax Act* (Canada).

- (2) Clause *b* of subsection 2 of the said section 20 is repealed s. 20 (2) (b),
re-enacted and the following substituted therefor:

(*b*) of that aggregate, the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 3 of section 16 in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 18 in respect of the property in computing its income for the taxation year,

if no deduction were allowed for the taxation year under this subsection, subsection 3 or section 19.

s. 20 (14) (b)
(iii).
re-enacted

- (3) Subclause iii of clause *b* of subsection 14 of the said section 20 is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (iii) notwithstanding paragraph *m* of subsection 1 of section 18 of the *Income Tax Act* (Canada), as that section applies to this Act by virtue of section 14 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs i to iii of the said paragraph *m* for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph *m* applied by virtue of subparagraph v thereof.

s. 27,
amended

8. Section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by adding thereto the following subsection:

Exception

- (2a) For the purposes of this Act, paragraph *d* of subsection 1 of section 96 of the *Income Tax Act* (Canada) shall apply as though the paragraph read as follows:

- (d) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 1 of section 19, section 20 or the provisions of *The Corporations Tax Application Rules, 1972* relating to exploration and development expenses.

s. 46 (1),
amended

9. Subsection 1 of section 46 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by inserting after "138" in the fifth line "138.1,".

s. 48,
re-enacted

10. Section 48 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor:

Amounts to
be included
in com-
puting
policy-
holder's
income

48. Section 138.1 and subsection 2 of section 142 of the *Income Tax Act* (Canada) are, in so far as they apply to corporations, applicable for the purposes of this Act.

Subsection 3 re-enacts subclause iii of paragraph *b* of subsection 14 of section 20 of the Act and its effect is to make that subclause applicable to amounts paid or payable after the 6th day of May, 1974.

SECTION 8. This section amends section 27 of the Act relating to partnerships in order to provide that paragraph *d* of subsection 1 of section 96 of the *Income Tax Act* (Canada) is not applicable for the purposes of the Act and to enact the provision (corresponding to the former paragraph *d* of subsection 1 of section 96) which will apply in lieu thereof. As a result, on the disposition of a Canadian resource property by a partnership, the proceeds of disposition will be included in the income of the partnership; under the recent amendment to the *Income Tax Act* (Canada) such proceeds would not be included.

SECTION 9. This section amends subsection 1 of section 46 of the Act, relating to insurance companies, in order to provide that the new section 138.1 of the *Income Tax Act* (Canada), relating to segregated funds in respect of life insurance policies, will be applicable for the purposes of the Act.

SECTION 10. This section re-enacts section 48 of the Act in order to make the new section 138.1 of the *Income Tax Act* (Canada) applicable for the purposes of the Act in so far as that section relates to corporations that are policyholders of insurance companies. In addition, this section enacts a new section 48*a* of the Act in order to provide that the new section 143 of the *Income Tax Act* (Canada), relating to communal organizations, is applicable for the purposes of the Act.

SECTION 11. This section adds a new subsection 3 to section 126 of the Act in order to provide special rules for determining the paid-up capital of corporations registered under *The Loan and Trust Corporations Act*. This amendment is complementary to the amendment contained in section 13 of the Bill.

SECTION 12. This section re-enacts subsection 2a of section 127 of the Act, relating to deductions from paid-up capital, and the interpretation of certain terms used in that part of the Act, in order to provide that subsections 1 and 2 of that section are not applicable to the new subsection 3 of section 126 relating to loan and trust corporations. This amendment is complementary to the amendments contained in sections 11 and 13 of the Bill.

SECTION 13. This section re-enacts subsection 2 of section 131 of the Act, relating to the rate of tax on the paid-up capital, in order to provide that for corporations registered under *The Loan and Trust Corporations Act* the rate will be three-fifths of one per cent of the amount taxable. These corporations will therefore be paying tax on paid-up capital at the same rate as is paid by banks. This amendment will come into force on the 8th day of March, 1978 with a proration for the taxation year that commences prior to the 8th day of March, 1978 and that ends on or after that date.

SECTION 14. This section re-enacts subsection 2 of section 132 of the Act, relating to the deduction from the tax on paid-up capital in respect of taxable paid-up capital employed outside Ontario, in order to make that subsection applicable to corporations registered under *The Loan and Trust Corporations Act*. This amendment is complementary to the amendment contained in section 13 of the Bill.

Communal Organizations

48a. Section 143 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act.

Application
of
R.S.C. 1952,
c. 148, s. 143

11. Section 126 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3 and 1977, chapter 58, sections 9 and 26, is further amended by adding thereto the following subsection:

s. 126,
amended

(3) Notwithstanding subsection 1, the taxable paid-up capital of a corporation registered under *The Loan and Trust Corporations Act* for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

Taxable
paid-up
capital of
loan and
trust cor-
porations
R.S.O. 1970,
c. 254

(a) its paid-up capital stock;

(b) its earned capital and any other surplus; and

(c) all its reserves, whether created from income or otherwise, except any reserve, the creation of which is allowed as a charge against income under the provisions of Part II.

12. Subsection 2a of section 127 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 42, section 12, is repealed and the following substituted therefor:

s. 127 (2a),
re-enacted

(2a) Subsections 1 and 2 do not apply to any corporation to which subsection 2 or 3 of section 126 applies.

Exception

13. Subsection 2 of section 131 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26, is repealed and the following substituted therefor:

s. 131 (2),
re-enacted

(2) The tax payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the "amount taxable" is three-fifths of 1 per cent of the amount taxable.

Rate of
capital tax
on banks and
loan and
trust
corporations
R.S.O. 1970,
c. 254

14. Subsection 2 of section 132 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4, is repealed and the following substituted therefor:

s. 132 (2),
re-enacted

(2) There may be deducted from the tax otherwise payable under this Part by a bank or a corporation registered

Idem

R.S.O. 1970,
c. 254

under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank or the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 143 (1),
re-enacted

15.—(1) Subsection 1 of section 143 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 18 and 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Insurance
corporations

(1) Every insurance corporation shall pay a tax of,

(a) 2 per cent calculated on the gross premiums payable, under contracts of accident insurance, life insurance and sickness insurance; and

(b) 3 per cent calculated on the gross premiums payable, under any other contract of insurance,

to the corporation or its agent or agents during the taxation year in respect of business transacted in Ontario (other than premiums in respect of reinsurance ceded to the corporation by other insurance corporations and considerations for annuities), after deducting from such premiums the amount of,

(c) the cash value of dividends credited to policy-holders; and

(d) the premiums returned.

s. 143 (1a),
re-enacted,
s. 143 (1b),
repealed

(2) Subsections 1a and 1b of the said section 143, as enacted by the Statutes of Ontario, 1976, chapter 32, section 18, are repealed and the following substituted therefor:

Interpre-
tation

(1a) For the purposes of subsection 1, “accident insurance”, “life insurance” and “sickness insurance” have the respective meanings given to those expressions by section 1 of *The Insurance Act*.

R.S.O. 1970,
c. 224

s. 146 (4),
re-enacted

16. Subsection 4 of section 146 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amount-

SECTION 15.—Subsection 1. Re-enacts subsection 1 of section 143 of the Act, relating to the premiums tax on insurance corporations, in order to reduce the rate of tax to 2 per cent in respect of premiums payable under contracts of accident insurance, life insurance and sickness insurance. The rate will remain at 3 per cent on the premiums on any other contract of insurance which was previously taxable at that rate. This amendment will come into force on the 8th day of March, 1978, with a proration in respect of a taxation year that commences before that date and that ends on or after that date.

Subsection 2. The amendments are complementary to subsection 1.

SECTION 16. This section re-enacts subsection 4 of section 146 of the Act, relating to the penalty for false statements in returns and in other statements or documents required under the Act, in order to clarify the amount of the understatement of tax on which the 25 per cent penalty will apply. These amendments parallel the recent amendments to the corresponding section of the *Income Tax Act* (Canada).

SECTION 17. This section amends section 148 of the Act in order to provide that instalments of tax will be required to be made monthly rather than bi-monthly. This change will come into force on July 1, 1978 effective for taxation years commencing on or after that date.

ing to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of 25 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income or other subject of tax reported by it in its return for the year that portion of the understatement of income or the understatement of any other subject of tax, for the year, that is reasonably attributable to the false statement;

exceeds,

- (b) the tax for the year that would have been payable by it under this Act had the tax payable for the year been assessed on the basis of the information provided in its return for the year.

(5) For the purposes of subsection 4, the taxable income reported by a corporation in its return for a taxation year shall be deemed not to be less than nil and the "understatement of income" for a year shall be determined in accordance with the rules provided in subsection 2.1 of section 163 of the *Income Tax Act* (Canada).

Interpretation

R.S.C. 1952,
c. 148

17.—(1) Clause *a* of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor:

s. 148 (3) (a).
re-enacted

- (a) on or before,

- (i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

- (A) its estimated taxable income and other subject of tax for the taxation year,
or

(B) its taxable income and other subject of tax for the immediately preceding taxation year; or

- (ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and other subject of tax for the immediately preceding taxation year; and

s. 148 (5),
re-enacted

- (2) Subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19 and amended by 1977, chapter 58, section 16, is repealed and the following substituted therefor:

Mutual fund
corporations

(5) Notwithstanding clause *a* of subsection 3, the amount payable by a mutual fund corporation to the Treasurer of Ontario on or before the last day of any month of the taxation year in respect of which the tax is payable, shall be deemed to be the amount, if any, by which,

- (a) the amount so payable otherwise determined under that subsection,

exceeds,

- (b) one-twelfth of the corporation's capital gains refund for the year, as determined under section 41.

s. 149 (1),
re-enacted

- 18.—**(1) Subsection 1 of section 149 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Interest on
unpaid tax

- (1) Where the amount paid on account of the tax payable by a corporation for a taxation year is less than the amount

SECTION 18. Subsection 1 amends subsection 1 of section 149 of the Act and adds a new subsection 1*a* to section 149 relating to interest on unpaid taxes, in order to provide that interest under that section will commence from the date on which the final payment of tax is required to be made under the Act (two months after the end of the taxation year or, for small business corporations, three months after the end of the taxation year). At present, the interest under that section commences from the last date for filing the return under the Act (six months after the end of the taxation year).

Subsection 2 re-enacts subsection 5 of section 149 of the Act relating to interest on unpaid instalments and is complementary to the amendments made by section 17 of the Bill.

SECTION 19. This section re-enacts subsections 1*a* and 1*b* of section 150 of the Act and adds a new subsection 1*c* to section 150, relating to the determination by the Minister of the losses of a corporation, in order to parallel the recent amendments to the corresponding section of the *Income Tax Act* (Canada). As a result of these amendments, the Minister may make the determination only at the request of the corporation, and must make the determination if the corporation requests it, and, subject to any redetermination by the Minister and any notice of objection or appeal, the determination will be binding on both the corporation and the Minister.

of tax payable for the taxation year, the corporation liable to pay the tax shall pay interest on the difference between,

- (a) the amount of tax payable for the taxation year; and
- (b) the amount paid on account of the tax payable for the taxation year,

from the day on which the balance of the tax payable is required to be paid pursuant to clause *b* of subsection 3 of section 148 to the day of payment of the tax, at such rate as is prescribed by the regulations.

(1a) For the purposes of subsection 1, the “amount paid on account of the tax payable” is the amount paid by the corporation on account of the tax payable for the taxation year minus any amounts refunded to the corporation or any amounts applied to other liability of the corporation pursuant to section 152. Interpretation

(2) Subsection 5 of the said section 149, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor: s. 149 (5), re-enacted

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined under, Interest on unpaid tax

- (a) sub-subclause A of subclause i of clause *a* of subsection 3 of section 148;
- (b) sub-subclause B of subclause i of clause *a* of subsection 3 of subsection 148; or
- (c) subclause ii of clause *a* of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

19. Subsections 1a and 1b of section 150 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 58, section 18, are repealed and the following substituted therefor: s. 150 (1a, 1b), re-enacted

(1a) Where the Minister ascertains the amount of a corporation’s non-capital loss, net capital loss or restricted farm loss for a taxation year and that amount is different from the amount reported by the corporation in its return of income for that year, the Minister shall, at the request of Determination of losses

the corporation, determine, with all due dispatch, the amount of the corporation's non-capital loss, net capital loss or restricted farm loss, as the case may be, and shall send a notice of determination to the corporation that delivered the return.

Provisions
applicable
R.S.C. 1952,
c. 148

(1*b*) The provisions of paragraph 1 of subsection 1 of section 56 and paragraph *o* of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, are applicable, *mutatis mutandis*, to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections 1 and 2 are not applicable to determinations made under subsection 1*a* and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year may be made by the Minister only at the request of the corporation.

Determina-
tion binding

(1*c*) For greater certainty, where the Minister makes a determination of the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Minister, the determination is binding on both the Minister and the corporation for the purposes of calculating the taxable income of the corporation in any other year.

s. 152 (3),
re-enacted

20. Subsection 3 of section 152 of the said Act is repealed and the following substituted therefor:

Interest on
overpay-
ments

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the later of,

(*a*) the day on which the overpayment arose; and

(*b*) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

SECTION 20. This section re-enacts subsection 3 of section 152 of the Act, relating to interest on overpayments of tax in order to provide that one of the dates for commencement of interest under that subsection will be the day on which the final payment of the tax for the taxation year is required to be made under the Act rather than the last day for filing the return. The credit interest on overpayments of tax will therefore in many cases commence earlier than under the existing provision.

SECTION 21. This section re-enacts subsection 1 of section 153 of the Act, relating to credit interest on overpaid instalments, in order to provide that one of the dates prior to which the overpayment must be made in order for the subsection to be applicable will be the day on which the final payment of the tax for the taxation year is required to be made under the Act rather than the last day for filing the return. This amendment is complementary to the amendment contained in section 20 of the Bill.

- 21.** Subsection 1 of section 153 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 20, is repealed and the following substituted therefor:

(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to,

s. 153 (1),
re-enacted
Credit
interest on
overpaid
instalments

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148; or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause *a*,

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the amount of the overpayment.

- 22.—**(1) Section 1, subsection 2 of section 12 of the said Act, as enacted by section 2 of this Act, and sections 3 and 8 shall be deemed to have come into force on the 8th day of December, 1977.

Commence-
ment and
Application

(2) Subsection 1 of section 18, and sections 19, 20 and 21 come into force on the day this Act receives Royal Assent.

Idem

(3) Sections 4 and 5 shall be deemed to have come into force on the 8th day of March, 1978, and apply to property acquired and expenses incurred after the 7th day of March, 1978.

Idem

(4) Subsection 3 of section 12 of the said Act, as enacted by section 2 of this Act, section 6 of this Act, and section 48*a* of the said Act, as enacted by section 10 of this Act, shall be deemed to have come into force on the 1st day of January, 1977 and apply to corporations in respect of all taxation years ending after 1976.

Idem

(5) Subsections 1 and 2 of section 7 shall be deemed to have come into force on the 7th day of May, 1974, and apply to corporations in respect of all taxation years ending after the 6th day of May, 1974.

Idem

(6) Subsection 3 of section 7 shall be deemed to have come into force on the 7th day of May, 1974, and applies to amounts paid or payable after the 6th day of May, 1974 in respect of the period after that date.

Idem

Idem

- (7) Section 9 of this Act, and section 48 of the said Act, as re-enacted by section 10 of this Act, shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977.

Idem

- (8) Sections 11, 12, 13 and 14 shall be deemed to have come into force on the 8th day of March, 1978 and apply to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March, 1978, and that includes that day, the following rules apply:

- (a) determine the amount of tax payable under Part III of the said Act as that Part stood on the 7th day of March, 1978 on the assumption that that Part as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under Part III of the said Act, as amended by sections 11, 12, 13 and 14 of this Act, on the assumption that that Part as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Part III of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

Idem

- (9) Section 15 shall be deemed to have come into force on the 8th day of March, 1978 and applies to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation

year ending after the 7th day of March and that includes that day, the following rules apply:

- (a) determine the tax payable under section 143 of the said Act as that section stood on the 7th day of March, 1978 on the assumption that that section as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under section 143 of the said Act, as amended by section 15 of this Act, on the assumption that that section as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under section 143 of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

- (10) Section 16 shall be deemed to have come into force on ^{Idem} the 1st day of April, 1977.
- (11) Section 17 and subsection 2 of section 18 come into force ^{Idem} on the 1st day of July, 1978 and apply to corporations in respect of all taxation years commencing on or after that date.

23. The short title of this Act is *The Corporations Tax Amendment Act, 1978*. ^{Short title}

An Act to amend
The Corporations Tax Act, 1972

1st Reading

March 7th, 1978

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

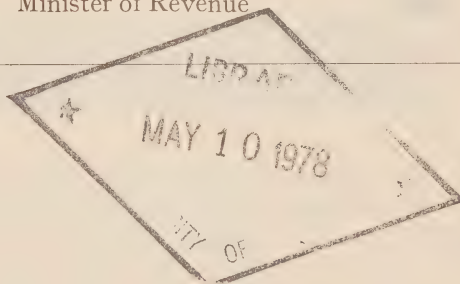
(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to amend
The Corporations Tax Act, 1972**

THE HON. L. MAECK
Minister of Revenue



(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. This section amends section 1 of the Act in order to clarify the application of the *Income Tax Act* (Canada) for the purposes of the Act.

Subsection 1 amends clause *d* of subsection 2 of section 1 of the Act by adding a reference therein to section 248 of the *Income Tax Act* (Canada) to make it clear that the definitions contained in that section of that Act are applicable for the purposes of this Act.

Subsection 2 amends subsection 6 of section 1 of the Act in order to make it clear that not only sections but also any other provisions (including subsections, subdivisions and divisions) of the *Income Tax Act* (Canada) that are adopted for the purposes of the Act are adopted as amended from time to time.

SECTION 2. The re-enactment of clause *c* of subsections 2 and 3 of section 2 of the Act restores the words "that was property situated in Ontario as prescribed by regulation" that were inadvertently omitted from those clauses when they were re-enacted in 1977.

BILL 28

1978

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause iv of clause *d* of subsection 2 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 1, is amended by striking out “section 138” in the third line and inserting in lieu thereof “sections 138 and 248”. s. 1 (2) (d) (iv),
amended

(2) Subsection 6 of the said section 1 is amended by striking out “sections” in the first line and inserting in lieu thereof “provisions”. s. 1 (6),
amended

2.—(1) Clause *c* of subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 2, is repealed and the following substituted therefor: s. 2 (2) (c),
re-enacted

(c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation; or R.S.C. 1952,
c. 148

.

(2) Clause *c* of subsection 3 of the said section 2, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 2, is repealed and the following substituted therefor: s. 2 (3) (c),
re-enacted

(c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the

reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation; or

s. 12 (2),
re-enacted

- 3.** Subsection 2 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 6, is repealed and the following substituted therefor:

Interpre-
tation

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph *c* thereof to "subdivision *e*" shall be deemed to be a reference to Subdivision D of Division B of Part II of this Act, and the reference in the said section to "this Part" shall be deemed to be a reference to Part II of this Act.

Corpora-
tion that
becomes
subject to
this Act
R.S.C. 1952,
c. 148

(3) Subject to subsection 4 of section 14, for the purpose of computing the income and taxable income of a corporation for a taxation year any amount deducted or deductible by the corporation under a provision of the *Income Tax Act* (Canada) in computing its income for a previous taxation year in respect of which the corporation was not subject to the tax imposed by Part II of this Act is deemed, unless otherwise provided in the said Part II, to have been deducted or deductible, as the case may be, under the corresponding provision of this Act in computing its income or taxable income, as the case may be, for that previous taxation year.

s. 13,
amended

- 4.** Section 13 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 7, is amended by adding thereto the following subsection:

Interpre-
tation

(2) In the application of the said section 4 for the purposes of this Act, the references therein to "this Part" shall be deemed to be references to Part II of this Act.

s. 14 (4) (a),
amended

- 5.—(1)** Clause *a* of subsection 4 of section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "subsections 7.1 and 10" in the first line and inserting in lieu thereof "subsection 10".

s. 14 (4) (b),
re-enacted

- (2) Clause *b* of subsection 4 of the said section 14 is repealed and the following substituted therefor:

Application
of
R.S.C. 1952,
c. 148,
s. 13 (7.1)

(b) the reference in subsection 7.1 of the said section 13 to "section 65" shall be deemed to be a reference to the said section 65 and to section 19 of this Act.

SECTION 3. This section re-enacts subsection 2 of section 12 of the Act in order to clarify the application of section 3 of the *Income Tax Act* (Canada) for the purposes of the Act. In addition, this section enacts a new subsection 3 to section 12 of the Act in order to make it clear that where a corporation becomes subject to the tax imposed on income under the Act, any amounts deducted or deductible under the *Income Tax Act* (Canada) for previous years will be deemed to have been deducted or deductible for those years for the purposes of the Act.

SECTION 4. This section adds subsection 2 to section 13 of the Act in order to clarify the application of section 4 of the *Income Tax Act* (Canada) for the purposes of this Act.

SECTION 5. Subsections 1 and 2 of this section amend subsection 4 of section 14 in order to parallel the federal treatment of depreciable property for the purchase of which a corporation has received governmental assistance of any kind. Subsection 1 removes from clause *a* of subsection 4 of section 14 of the Act the reference to subsection 7.1 of section 13 of the *Income Tax Act* (Canada), thereby making the said subsection 7.1 applicable for the purposes of the Act. At the same time, subsection 2 repeals clause *b* of subsection 4 of section 14 of the Act, which had been enacted in lieu of subsection 7.1 of section 13 of the *Income Tax Act* (Canada). As a result, governmental assistance in the form of "deductions from tax" (i.e. tax credits) will result in a reduction of the capital cost of the property for the purpose of calculating capital cost allowance.

SECTION 6. This section amends clause *c* of subsection 4 of section 15 of the Act, relating to the determination of the adjusted cost base of property by repealing subclause *i* thereof so that the corresponding federal provision will be applicable. This amendment is complementary to the amendments contained in subsections 1 and 2 of section 5 of the Bill.

SECTION 7. This section amends subsection 2 of section 18 of the Act, relating to reserves to be claimed in respect of the disposition of resource property where the consideration is not due until a subsequent year, in order to parallel the recent amendment to the corresponding section of the *Income Tax Act* (Canada). The amendment clarifies the circumstances in which the reserve will not be allowed. A corporation will now be able to claim the reserve if at the end of the year of the disposition and at all times in the subsequent year it had a permanent establishment in Canada, even if it was not resident in Canada; previously, if at any time in the year of disposition or in the following year the corporation was not resident in Canada, it could not claim the reserve.

SECTION 8. Subsections 1 and 2 amend subsections 1 and 2 of section 20 of the Act, relating to exploration and development expenses, in order to clarify the order of deductions under that section. These amendments make it clear that the other deductions permitted under section 20 of the Act are to be claimed prior to any deduction being claimed under subsections 1 to 3 of section 20. These amendments parallel the recent amendments to the corresponding sections of the *Income Tax Act* (Canada).

6. Subclause i of clause c of subsection 4 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed. s. 15 (4) (c) (i),
repealed

7. Subsection 2 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 18 (2),
re-enacted

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at the end of the year or at any time in the immediately following year, Application
of subs. 1

(a) was exempt from tax under any provision of this Part; or

(b) was not resident in Canada and ceased to have a permanent establishment in Canada.

8.—(1) Clause b of subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 20 (1) (b),
re-enacted

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this subsection or section 19, minus the deductions allowed for the taxation year by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act. R.S.C. 1952,
c. 148

(2) Clause b of subsection 2 of the said section 20 is repealed and the following substituted therefor: s. 20 (2) (b),
re-enacted

(b) of that aggregate, the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause a, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas

well in Canada or a mine in Canada,
and

- (C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 3 of section 16 in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 18 in respect of the property in computing its income for the taxation year,

if no deduction were allowed for the taxation year under this subsection, subsection 3 or section 19.

s. 20 (14) (b)
(iii),
re-enacted

- (3) Subclause iii of clause *b* of subsection 14 of the said section 20 is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (iii) notwithstanding paragraph *m* of subsection 1 of section 18 of the *Income Tax Act* (Canada), as that section applies to this Act by virtue of section 14 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs i to iii of the said paragraph *m* for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph *m* applied by virtue of subparagraph v thereof.

Subsection 3 re-enacts subclause iii of clause *b* of subsection 14 of section 20 of the Act and its effect is to make that subclause applicable to amounts paid or payable after the 6th day of May, 1974.

SECTION 9. This section amends section 27 of the Act relating to partnerships in order to provide that paragraph *d* of subsection 1 of section 96 of the *Income Tax Act* (Canada) is not applicable for the purposes of the Act and to enact the provision (corresponding to the former paragraph *d* of subsection 1 of section 96) which will apply in lieu thereof. As a result, on the disposition of a Canadian resource property by a partnership, the proceeds of disposition will be included in the income of the partnership; under the recent amendment to the *Income Tax Act* (Canada) such proceeds would not be included.

SECTION 10. This section amends subsection 1 of section 46 of the Act, relating to insurance companies, in order to provide that the new section 138.1 of the *Income Tax Act* (Canada), relating to segregated funds in respect of life insurance policies, will be applicable for the purposes of the Act.

SECTION 11. This section re-enacts section 48 of the Act in order to make the new section 138.1 of the *Income Tax Act* (Canada) applicable for the purposes of the Act in so far as that section relates to corporations that are policyholders of insurance companies. In addition, this section enacts a new section 48*a* of the Act in order to provide that the new section 143 of the *Income Tax Act* (Canada), relating to communal organizations, is applicable for the purposes of the Act.

SECTION 12. This section adds a new subsection 3 to section 126 of the Act in order to provide special rules for determining the paid-up capital of corporations registered under *The Loan and Trust Corporations Act*. This amendment is complementary to the amendment contained in section 14 of the Bill.

9. Section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by adding thereto the following subsection: s. 27.
amended

(2a) For the purposes of this Act, paragraph *d* of subsection 1 of section 96 of the *Income Tax Act* (Canada) shall apply as though the paragraph read as follows: Exception

- (d) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 1 of section 19, section 20 or the provisions of *The Corporations Tax Application Rules, 1972* relating to exploration and development expenses.

10. Subsection 1 of section 46 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by inserting after "138" in the fifth line "138.1,". s. 46 (1).
amended

11. Section 48 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 48.
re-enacted

48. Section 138.1 and subsection 2 of section 142 of the *Income Tax Act* (Canada) are, in so far as they apply to corporations, applicable for the purposes of this Act. Amounts to
be included
in com-
puting
policy-
holder's
income

Communal Organizations

48a. Section 143 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act. Application
of
R.S.C. 1952,
c. 148, s. 143

12. Section 126 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3 and 1977, chapter 58, sections 9 and 26, is further amended by adding thereto the following subsection: s. 126.
amended

(3) Notwithstanding subsection 1, the taxable paid-up capital of a corporation registered under *The Loan and Trust Corporations Act* for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable
paid-up
capital of
loan and
trust cor-
porations
R.S.O. 1970,
c. 254

(a) its paid-up capital stock;

(b) its earned, capital and any other surplus; and

(c) all its reserves, whether created from income or otherwise, except any reserve, the creation of which is allowed as a charge against income under the provisions of Part II.

s. 127 (2a),
re-enacted

13. Subsection 2a of section 127 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 42, section 12, is repealed and the following substituted therefor:

Exception

(2a) Subsections 1 and 2 do not apply to any corporation to which subsection 2 or 3 of section 126 applies.

s. 131 (2),
re-enacted

14. Subsection 2 of section 131 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Rate of
capital tax
on banks and
loan and
trust
corporations
R.S.O. 1970,
c. 254

(2) The tax payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the "amount taxable" is three-fifths of 1 per cent of the amount taxable.

s. 132 (2),
re-enacted

15. Subsection 2 of section 132 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4, is repealed and the following substituted therefor:

Idem

(2) There may be deducted from the tax otherwise payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank or the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 143 (1),
re-enacted

16.—(1) Subsection 1 of section 143 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 18 and 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Insurance
corporations

(1) Every insurance corporation shall pay a tax of,

(a) 2 per cent calculated on the gross premiums payable, under contracts of accident insurance, life insurance and sickness insurance; and

(b) 3 per cent calculated on the gross premiums payable, under any other contract of insurance,

SECTION 13. This section re-enacts subsection 2*a* of section 127 of the Act, relating to deductions from paid-up capital, and the interpretation of certain terms used in that part of the Act, in order to provide that subsections 1 and 2 of that section are not applicable to the new subsection 3 of section 126 relating to loan and trust corporations. This amendment is complementary to the amendments contained in sections 12 and 14 of the Bill.

SECTION 14. This section re-enacts subsection 2 of section 131 of the Act, relating to the rate of tax on the paid-up capital, in order to provide that for corporations registered under *The Loan and Trust Corporations Act* the rate will be three-fifths of one per cent of the amount taxable. These corporations will therefore be paying tax on paid-up capital at the same rate as is paid by banks. This amendment will come into force on the 8th day of March, 1978 with a proration for the taxation year that commences prior to the 8th day of March, 1978 and that ends on or after that date.

SECTION 15. This section re-enacts subsection 2 of section 132 of the Act, relating to the deduction from the tax on paid-up capital in respect of taxable paid-up capital employed outside Ontario, in order to make that subsection applicable to corporations registered under *The Loan and Trust Corporations Act*. This amendment is complementary to the amendment contained in section 14 of the Bill.

SECTION 16.—Subsection 1. Re-enacts subsection 1 of section 143 of the Act, relating to the premiums tax on insurance corporations, in order to reduce the rate of tax to 2 per cent in respect of premiums payable under contracts of accident insurance, life insurance and sickness insurance. The rate will remain at 3 per cent on the premiums on any other contract of insurance which was previously taxable at that rate. This amendment will come into force on the 8th day of March, 1978, with a proration in respect of a taxation year that commences before that date and that ends on or after that date.

Subsection 2. The amendments are complementary to subsection 1.

SECTION 17. This section re-enacts subsection 4 of section 146 of the Act, relating to the penalty for false statements in returns and in other statements or documents required under the Act, in order to clarify the amount of the understatement of tax on which the 25 per cent penalty will apply. These amendments parallel the recent amendments to the corresponding section of the *Income Tax Act* (Canada).

to the corporation or its agent or agents during the taxation year in respect of business transacted in Ontario (other than premiums in respect of reinsurance ceded to the corporation by other insurance corporations and considerations for annuities), after deducting from such premiums the amount of,

(c) the cash value of dividends credited to policyholders; and

(d) the premiums returned.

- (2) Subsections 1a and 1b of the said section 143, as enacted by the Statutes of Ontario, 1976, chapter 32, section 18, are repealed and the following substituted therefor:

s. 143 (1a),
re-enacted,
s. 143 (1b),
repealed

(1a) For the purposes of subsection 1, "accident insurance", "life insurance" and "sickness insurance" have the respective meanings given to those expressions by section 1 of *The Insurance Act*.

Interpre-
tation

R.S.O. 1970.
c. 224

17. Subsection 4 of section 146 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

s. 146 (4),
re-enacted

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of 25 per cent of the amount, if any, by which,

Statements
or omissions
in return

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income or other subject of tax reported by it in its return for the year that portion of the understatement of income or the understatement of any other subject of tax, for the year, that is reasonably attributable to the false statement;

exceeds,

- (b) the tax for the year that would have been payable by it under this Act had the tax payable for the year been assessed on the basis of the information provided in its return for the year.

Interpre-
tation

(5) For the purposes of subsection 4, the taxable income reported by a corporation in its return for a taxation year shall be deemed not to be less than nil and the "understatement of income" for a year shall be determined in accordance with the rules provided in subsection 2.1 of section 163 of the *Income Tax Act* (Canada).

R.S.C. 1952.
c. 148

s. 148 (3) (a),
re-enacted

18.—(1) Clause *a* of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor:

(a) on or before,

- (i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

(A) its estimated taxable income and other subject of tax for the taxation year, or

(B) its taxable income and other subject of tax for the immediately preceding taxation year; or

- (ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and

SECTION 18. This section amends section 148 of the Act in order to provide that instalments of tax will be required to be made monthly rather than bi-monthly. This change will come into force on July 1, 1978 effective for taxation years commencing on or after that date.

SECTION 19. Subsection 1 amends subsection 1 of section 149 of the Act and adds a new subsection 1a to section 149 relating to interest on unpaid taxes, in order to provide that interest under that section will commence from the date on which the final payment of tax is required to be made under the Act (two months after the end of the taxation year or, for small business corporations, three months after the end of the taxation year). At present, the interest under that section commences from the last date for filing the return under the Act (six months after the end of the taxation year).

other subject of tax for the immediately preceding taxation year; and

- (2) Subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19 and amended by 1977, chapter 58, section 16, is repealed and the following substituted therefor:

s. 148 (5),
re-enacted

(5) Notwithstanding clause *a* of subsection 3, the amount payable by a mutual fund corporation to the Treasurer of Ontario on or before the last day of any month of the taxation year in respect of which the tax is payable, shall be deemed to be the amount, if any, by which,

Mutual fund
corporations

- (a) the amount so payable otherwise determined under that subsection,

exceeds,

- (b) one-twelfth of the corporation's capital gains refund for the year, as determined under section 41.

- 19.**—(1) Subsection 1 of section 149 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

s. 149 (1),
re-enacted

(1) Where the amount paid on account of the tax payable by a corporation for a taxation year is less than the amount of tax payable for the taxation year, the corporation liable to pay the tax shall pay interest on the difference between,

Interest on
unpaid tax

- (a) the amount of tax payable for the taxation year; and

- (b) the amount paid on account of the tax payable for the taxation year,

from the day on which the balance of the tax payable is required to be paid pursuant to clause *b* of subsection 3 of section 148 to the day of payment of the tax, at such rate as is prescribed by the regulations.

(1a) For the purposes of subsection 1, the "amount paid on account of the tax payable" is the amount paid by the corporation on account of the tax payable for the taxation year minus any amounts refunded to the corporation or any amounts applied to other liability of the corporation pursuant to section 152.

Interpre-
tation

s. 149 (5),
re-enacted

- (2) Subsection 5 of the said section 149, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Interest on
unpaid tax

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined under,

(a) sub-subclause A of subclause i of clause *a* of subsection 3 of section 148;

(b) sub-subclause B of subclause i of clause *a* of subsection 3 of section 148; or

(c) subclause ii of clause *a* of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

s. 150 (1a, 1b),
re-enacted

20. Subsections 1a and 1b of section 150 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 58, section 18, are repealed and the following substituted therefor:

Determina-
tion of
losses

(1a) Where the Minister ascertains the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year and that amount is different from the amount reported by the corporation in its return of income for that year, the Minister shall, at the request of the corporation, determine, with all due dispatch, the amount of the corporation's non-capital loss, net capital loss or restricted farm loss, as the case may be, and shall send a notice of determination to the corporation that delivered the return.

Provisions
applicable
R.S.C. 1952,
c. 148

(1b) The provisions of paragraph *l* of subsection 1 of section 56 and paragraph *o* of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, are applicable, *mutatis mutandis*, to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections 1 and 2 are not applicable to determinations made under subsection 1a and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year may be made by the Minister only at the request of the corporation.

Subsection 2 re-enacts subsection 5 of section 149 of the Act relating to interest on unpaid instalments and is complementary to the amendments made by section 18 of the Bill.

SECTION 20. This section re-enacts subsections 1*a* and 1*b* of section 150 of the Act and adds a new subsection 1*c* to section 150, relating to the determination by the Minister of the losses of a corporation, in order to parallel the recent amendments to the corresponding section of the *Income Tax Act* (Canada). As a result of these amendments, the Minister may make the determination only at the request of the corporation, and must make the determination if the corporation requests it, and, subject to any redetermination by the Minister and any notice of objection or appeal, the determination will be binding on both the corporation and the Minister.

SECTION 21. This section re-enacts subsection 3 of section 152 of the Act, relating to interest on overpayments of tax in order to provide that one of the dates for commencement of interest under that subsection will be the day on which the final payment of the tax for the taxation year is required to be made under the Act rather than the last day for filing the return. The credit interest on overpayments of tax will therefore in many cases commence earlier than under the existing provision.

SECTION 22. This section re-enacts subsection 1 of section 153 of the Act, relating to credit interest on overpaid instalments, in order to provide that one of the dates prior to which the overpayment must be made in order for the subsection to be applicable will be the day on which the final payment of the tax for the taxation year is required to be made under the Act rather than the last day for filing the return. This amendment is complementary to the amendment contained in section 21 of the Bill.

(1c) For greater certainty, where the Minister makes a determination of the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Minister, the determination is binding on both the Minister and the corporation for the purposes of calculating the taxable income of the corporation in any other year. Determination binding

21. Subsection 3 of section 152 of the said Act is repealed and the following substituted therefor: s. 152 (3), re-enacted

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the later of, Interest on overpayments

(a) the day on which the overpayment arose; and

(b) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

22. Subsection 1 of section 153 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 20, is repealed and the following substituted therefor: s. 153 (1), re-enacted

(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to, Credit interest on overpaid instalments

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148; or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause *a*,

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the amount of the overpayment.

Commence-
ment and
Application

23.—(1) Sections 1 and 2, subsection 2 of section 12 of the said Act, as enacted by section 3 of this Act, and sections 4 and 9 shall be deemed to have come into force on the 8th day of December, 1977.

Idem

(2) Subsection 1 of section 19, and sections 20, 21 and 22 come into force on the day this Act receives Royal Assent.

Idem

(3) Sections 5 and 6 shall be deemed to have come into force on the 8th day of March, 1978, and apply to property acquired and expenses incurred after the 7th day of March, 1978.

Idem

(4) Subsection 3 of section 12 of the said Act, as enacted by section 3 of this Act, section 7 of this Act, and section 48*a* of the said Act, as enacted by section 11 of this Act, shall be deemed to have come into force on the 1st day of January, 1977 and apply to corporations in respect of all taxation years ending after 1976.

Idem

(5) Subsections 1 and 2 of section 8 shall be deemed to have come into force on the 7th day of May, 1974, and apply to corporations in respect of all taxation years ending after the 6th day of May, 1974.

Idem

(6) Subsection 3 of section 8 shall be deemed to have come into force on the 7th day of May, 1974, and applies to amounts paid or payable after the 6th day of May, 1974 in respect of the period after that date.

Idem

(7) Section 10 of this Act, and section 48 of the said Act, as re-enacted by section 11 of this Act, shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977.

Idem

(8) Sections 12, 13, 14 and 15 shall be deemed to have come into force on the 8th day of March, 1978 and apply to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March, 1978, and that includes that day, the following rules apply:

(*a*) determine the amount of tax payable under Part III of the said Act as that Part stood on the 7th day of March, 1978 on the assumption that that Part as it so stood was applicable to that taxation year;

(*b*) determine the proportion of the amount determined under clause *a* that the number of days of that

taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;

- (c) determine the amount of tax payable under Part III of the said Act, as amended by sections 12, 13, 14 and 15 of this Act, on the assumption that that Part as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Part III of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

- (9) Section 16 shall be deemed to have come into force on ^{Idem} the 8th day of March, 1978 and applies to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March and that includes that day, the following rules apply:

- (a) determine the tax payable under section 143 of the said Act as that section stood on the 7th day of March, 1978 on the assumption that that section as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under section 143 of the said Act, as amended by section 16 of this Act, on the assumption that that section as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of

that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;

- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under section 143 of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

Idem (10) Section 17 shall be deemed to have come into force on the 1st day of April, 1977.

Idem (11) Section 18 and subsection 2 of section 19 come into force on the 1st day of July, 1978 and apply to corporations in respect of all taxation years commencing on or after that date.

Short title **24.** The short title of this Act is *The Corporations Tax Amendment Act, 1978*.

An Act to amend
The Corporations Tax Act, 1972

1st Reading

March 7th, 1978

2nd Reading

April 18th, 1978

3rd Reading

THE HON. L. MAECK
Minister of Revenue

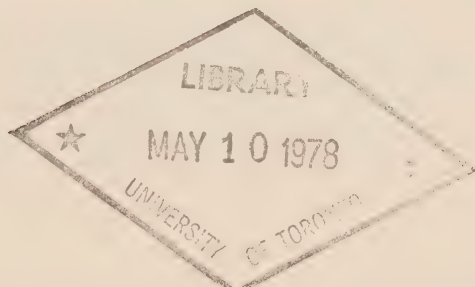
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2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

1 Legislative Assembly
2

**An Act to amend
The Corporations Tax Act, 1972**

THE HON. L. MAECK
Minister of Revenue



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BILL 28

1978

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclause iv of clause *d* of subsection 2 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 1, is amended by striking out “section 138” in the third line and inserting in lieu thereof “sections 138 and 248”. s. 1 (2) (d) (iv),
amended
- (2) Subsection 6 of the said section 1 is amended by striking out “sections” in the first line and inserting in lieu thereof “provisions”. s. 1 (6),
amended
- 2.—(1) Clause *c* of subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 2, is repealed and the following substituted therefor: s. 2 (2) (c),
re-enacted
 - (c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation; or R.S.C. 1952,
c. 148
 -
 - (2) Clause *c* of subsection 3 of the said section 2, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 2, is repealed and the following substituted therefor: s. 2 (3) (c),
re-enacted
 - (c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the

reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation; or

s. 12 (2),
re-enacted

- 3.** Subsection 2 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 6, is repealed and the following substituted therefor:

Interpre-
tation

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph *c* thereof to "sub-division *e*" shall be deemed to be a reference to Subdivision D of Division B of Part II of this Act, and the reference in the said section to "this Part" shall be deemed to be a reference to Part II of this Act.

Corpora-
tion that
becomes
subject to
this Act
R.S.C. 1952,
c. 148

(3) Subject to subsection 4 of section 14, for the purpose of computing the income and taxable income of a corporation for a taxation year any amount deducted or deductible by the corporation under a provision of the *Income Tax Act* (Canada) in computing its income for a previous taxation year in respect of which the corporation was not subject to the tax imposed by Part II of this Act is deemed, unless otherwise provided in the said Part II, to have been deducted or deductible, as the case may be, under the corresponding provision of this Act in computing its income or taxable income, as the case may be, for that previous taxation year.

s. 13,
amended

- 4.** Section 13 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 7, is amended by adding thereto the following subsection:

Interpre-
tation

(2) In the application of the said section 4 for the purposes of this Act, the references therein to "this Part" shall be deemed to be references to Part II of this Act.

s. 14 (4) (a),
amended

- 5.—(1)** Clause *a* of subsection 4 of section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "subsections 7.1 and 10" in the first line and inserting in lieu thereof "subsection 10".

s. 14 (4) (b),
re-enacted

- (2) Clause *b* of subsection 4 of the said section 14 is repealed and the following substituted therefor:

Application
of
R.S.C. 1952,
c. 148,
s. 13 (7.1)

- (b) the reference in subsection 7.1 of the said section 13 to "section 65" shall be deemed to be a reference to the said section 65 and to section 19 of this Act.

6. Subclause i of clause c of subsection 4 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed. s. 15 (4) (c) (i),
repealed

7. Subsection 2 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 18 (2),
re-enacted

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at the end of the year or at any time in the immediately following year, Application
of subs. 1

(a) was exempt from tax under any provision of this Part; or

(b) was not resident in Canada and ceased to have a permanent establishment in Canada.

8.—(1) Clause b of subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 20 (1) (b),
re-enacted

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this subsection or section 19, minus the deductions allowed for the taxation year by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act. R.S.C. 1952,
c. 148

(2) Clause b of subsection 2 of the said section 20 is repealed and the following substituted therefor: s. 20 (2) (b),
re-enacted

(b) of that aggregate, the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause a, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas

well in Canada or a mine in Canada,
and

- (C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 3 of section 16 in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 18 in respect of the property in computing its income for the taxation year,

if no deduction were allowed for the taxation year under this subsection, subsection 3 or section 19.

s. 20 (14) (b)
(iii),
re-enacted

- (3) Subclause iii of clause *b* of subsection 14 of the said section 20 is repealed and the following substituted therefor:

R.S.C. 1952,
c. 148

- (iii) notwithstanding paragraph *m* of subsection 1 of section 18 of the *Income Tax Act* (Canada), as that section applies to this Act by virtue of section 14 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs i to iii of the said paragraph *m* for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph *m* applied by virtue of subparagraph v thereof.

9. Section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by adding thereto the following subsection: s. 27. amended

(2a) For the purposes of this Act, paragraph *d* of subsection 1 of section 96 of the *Income Tax Act* (Canada) shall apply as though the paragraph read as follows: Exception

- (*d*) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 1 of section 19, section 20 or the provisions of *The Corporations Tax Application Rules, 1972* relating to exploration and development expenses.

10. Subsection 1 of section 46 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by inserting after "138" in the fifth line "138.1,". s. 46 (1). amended

11. Section 48 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 48. re-enacted

48. Section 138.1 and subsection 2 of section 142 of the *Income Tax Act* (Canada) are, in so far as they apply to corporations, applicable for the purposes of this Act. Amounts to be included in computing policy-holder's income

Communal Organizations

48a. Section 143 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act. Application of R.S.C. 1952, c. 148, s. 143

12. Section 126 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3 and 1977, chapter 58, sections 9 and 26, is further amended by adding thereto the following subsection: s. 126. amended

(3) Notwithstanding subsection 1, the taxable paid-up capital of a corporation registered under *The Loan and Trust Corporations Act* for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable paid-up capital of loan and trust corporations R.S.O. 1970, c. 254

(*a*) its paid-up capital stock;

(*b*) its earned, capital and any other surplus; and

- (c) all its reserves, whether created from income or otherwise, except any reserve, the creation of which is allowed as a charge against income under the provisions of Part II.

s. 127 (2a),
re-enacted

- 13.** Subsection 2a of section 127 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 42, section 12, is repealed and the following substituted therefor:

Exception

(2a) Subsections 1 and 2 do not apply to any corporation to which subsection 2 or 3 of section 126 applies.

s. 131 (2),
re-enacted

- 14.** Subsection 2 of section 131 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Rate of
capital tax
on banks and
loan and
trust
corporations
R.S.O. 1970,
c. 254

(2) The tax payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the "amount taxable" is three-fifths of 1 per cent of the amount taxable.

s. 132 (2),
re-enacted

- 15.** Subsection 2 of section 132 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4, is repealed and the following substituted therefor:

Idem

(2) There may be deducted from the tax otherwise payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank or the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 143 (1),
re-enacted

- 16.—(1)** Subsection 1 of section 143 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 18 and 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Insurance
corporations

(1) Every insurance corporation shall pay a tax of,

(a) 2 per cent calculated on the gross premiums payable, under contracts of accident insurance, life insurance and sickness insurance; and

(b) 3 per cent calculated on the gross premiums payable, under any other contract of insurance,

to the corporation or its agent or agents during the taxation year in respect of business transacted in Ontario (other than premiums in respect of reinsurance ceded to the corporation by other insurance corporations and considerations for annuities), after deducting from such premiums the amount of,

(c) the cash value of dividends credited to policyholders; and

(d) the premiums returned.

- (2) Subsections 1a and 1b of the said section 143, as enacted by the Statutes of Ontario, 1976, chapter 32, section 18, are repealed and the following substituted therefor:

s. 143 (1a),
re-enacted,
s. 143 (1b),
repealed

(1a) For the purposes of subsection 1, "accident insurance", "life insurance" and "sickness insurance" have the respective meanings given to those expressions by section 1 of *The Insurance Act*.

Interpre-
tation

R.S.O. 1970,
c. 224

17. Subsection 4 of section 146 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

s. 146 (4),
re-enacted

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of 25 per cent of the amount, if any, by which,

Statements
or omissions
in return

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income or other subject of tax reported by it in its return for the year that portion of the understatement of income or the understatement of any other subject of tax, for the year, that is reasonably attributable to the false statement;

exceeds,

- (b) the tax for the year that would have been payable by it under this Act had the tax payable for the year been assessed on the basis of the information provided in its return for the year.

Interpre-
tation

(5) For the purposes of subsection 4, the taxable income reported by a corporation in its return for a taxation year shall be deemed not to be less than nil and the "understatement of income" for a year shall be determined in accordance with the rules provided in subsection 2.1 of section 163 of the *Income Tax Act* (Canada).

R.S.C. 1952.
c. 148

s. 148 (3) (a),
re-enacted

18.—(1) Clause *a* of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor:

(a) on or before,

- (i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

(A) its estimated taxable income and other subject of tax for the taxation year, or

(B) its taxable income and other subject of tax for the immediately preceding taxation year; or

- (ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and

other subject of tax for the immediately preceding taxation year; and

- (2) Subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19 and amended by 1977, chapter 58, section 16, is repealed and the following substituted therefor: s. 148 (5),
re-enacted

(5) Notwithstanding clause *a* of subsection 3, the amount payable by a mutual fund corporation to the Treasurer of Ontario on or before the last day of any month of the taxation year in respect of which the tax is payable, shall be deemed to be the amount, if any, by which, Mutual fund
corporations

- (a) the amount so payable otherwise determined under that subsection,

exceeds,

- (b) one-twelfth of the corporation's capital gains refund for the year, as determined under section 41.

- 19.**—(1) Subsection 1 of section 149 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor: s. 149 (1),
re-enacted

(1) Where the amount paid on account of the tax payable by a corporation for a taxation year is less than the amount of tax payable for the taxation year, the corporation liable to pay the tax shall pay interest on the difference between, Interest on
unpaid tax

- (a) the amount of tax payable for the taxation year; and

- (b) the amount paid on account of the tax payable for the taxation year,

from the day on which the balance of the tax payable is required to be paid pursuant to clause *b* of subsection 3 of section 148 to the day of payment of the tax, at such rate as is prescribed by the regulations.

(1a) For the purposes of subsection 1, the "amount paid on account of the tax payable" is the amount paid by the corporation on account of the tax payable for the taxation year minus any amounts refunded to the corporation or any amounts applied to other liability of the corporation pursuant to section 152. Interpre-
tation

s. 149 (5),
re-enacted

- (2) Subsection 5 of the said section 149, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Interest on
unpaid tax

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined under,

(a) sub-subclause A of subclause i of clause *a* of subsection 3 of section 148;

(b) sub-subclause B of subclause i of clause *a* of subsection 3 of subsection 148; or

(c) subclause ii of clause *a* of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

s. 150 (1a, 1b),
re-enacted

20. Subsections 1a and 1b of section 150 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 58, section 18, are repealed and the following substituted therefor:

Determina-
tion of
losses

(1a) Where the Minister ascertains the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year and that amount is different from the amount reported by the corporation in its return of income for that year, the Minister shall, at the request of the corporation, determine, with all due dispatch, the amount of the corporation's non-capital loss, net capital loss or restricted farm loss, as the case may be, and shall send a notice of determination to the corporation that delivered the return.

Provisions
applicable
R.S.C. 1952,
c. 148

(1b) The provisions of paragraph *l* of subsection 1 of section 56 and paragraph *o* of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, are applicable, *mutatis mutandis*, to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections 1 and 2 are not applicable to determinations made under subsection 1a and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year may be made by the Minister only at the request of the corporation.

(1c) For greater certainty, where the Minister makes a determination of the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Minister, the determination is binding on both the Minister and the corporation for the purposes of calculating the taxable income of the corporation in any other year.

Determina-
tion binding

- 21.** Subsection 3 of section 152 of the said Act is repealed and the following substituted therefor:

s. 152 (3),
re-enacted

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the later of,

Interest on
overpay-
ments

(a) the day on which the overpayment arose; and

(b) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

- 22.** Subsection 1 of section 153 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 20, is repealed and the following substituted therefor:

s. 153 (1),
re-enacted

(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to,

Credit
interest on
overpaid
instalments

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148; or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause *a*,

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the amount of the overpayment.

Commence-
ment and
Application

23.—(1) Sections 1 and 2, subsection 2 of section 12 of the said Act, as enacted by section 3 of this Act, and sections 4 and 9 shall be deemed to have come into force on the 8th day of December, 1977.

Idem

(2) Subsection 1 of section 19, and sections 20, 21 and 22 come into force on the day this Act receives Royal Assent.

Idem

(3) Sections 5 and 6 shall be deemed to have come into force on the 8th day of March, 1978, and apply to property acquired and expenses incurred after the 7th day of March, 1978.

Idem

(4) Subsection 3 of section 12 of the said Act, as enacted by section 3 of this Act, section 7 of this Act, and section 48a of the said Act, as enacted by section 11 of this Act, shall be deemed to have come into force on the 1st day of January, 1977 and apply to corporations in respect of all taxation years ending after 1976.

Idem

(5) Subsections 1 and 2 of section 8 shall be deemed to have come into force on the 7th day of May, 1974, and apply to corporations in respect of all taxation years ending after the 6th day of May, 1974.

Idem

(6) Subsection 3 of section 8 shall be deemed to have come into force on the 7th day of May, 1974, and applies to amounts paid or payable after the 6th day of May, 1974 in respect of the period after that date.

Idem

(7) Section 10 of this Act, and section 48 of the said Act, as re-enacted by section 11 of this Act, shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977.

Idem

(8) Sections 12, 13, 14 and 15 shall be deemed to have come into force on the 8th day of March, 1978 and apply to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March, 1978, and that includes that day, the following rules apply:

(a) determine the amount of tax payable under Part III of the said Act as that Part stood on the 7th day of March, 1978 on the assumption that that Part as it so stood was applicable to that taxation year;

(b) determine the proportion of the amount determined under clause *a* that the number of days of that

taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;

- (c) determine the amount of tax payable under Part III of the said Act, as amended by sections 12, 13, 14 and 15 of this Act, on the assumption that that Part as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Part III of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

- (9) Section 16 shall be deemed to have come into force on ^{Idem} the 8th day of March, 1978 and applies to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March and that includes that day, the following rules apply:

- (a) determine the tax payable under section 143 of the said Act as that section stood on the 7th day of March, 1978 on the assumption that that section as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under section 143 of the said Act, as amended by section 16 of this Act, on the assumption that that section as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of

that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;

- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under section 143 of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

Idem (10) Section 17 shall be deemed to have come into force on the 1st day of April, 1977.

Idem (11) Section 18 and subsection 2 of section 19 come into force on the 1st day of July, 1978 and apply to corporations in respect of all taxation years commencing on or after that date.

Short title **24.** The short title of this Act is *The Corporations Tax Amendment Act, 1978*.

An Act to amend
The Corporations Tax Act, 1972

1st Reading

March 7th, 1978

2nd Reading

April 18th, 1978

3rd Reading

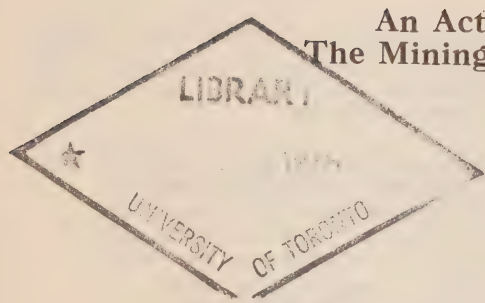
April 25th, 1978

THE HON. L. MAECK
Minister of Revenue

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2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly



An Act to amend
The Mining Tax Act, 1972

THE HON. F. S. MILLER
Minister of Natural Resources

EXPLANATORY NOTES

SECTION 1. The section adds the definition of a "social asset" and is complementary to subsections 1 and 5 of section 2 of the Bill.

SECTION 2.—Subsection 1. The subsection adds clause *ea* to the deductions permitted to be made under subsection 3 of section 3 of the Act. A mine operator is permitted to deduct the proportion of operating and maintenance expenses of social assets attributable to mining operations provided that those expenses are not otherwise deductible under any other provision of the Act or the regulations. In computing the amount of operating and maintenance expenses, there must be deducted the amount of all rents, fees, grants and other payments received during the year in respect of the operation of the social asset. This amendment is retroactive to April 9, 1974.

Subsection 2. Clause *k* of subsection 3 of section 3 of the Act now reads as follows:

- (*k*) *an allowance for depreciation in each taxation year of not less than 5 per cent and not more than 15 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.*

The amendment removes the mandatory minimum deduction for depreciation of not less than 5 per cent of the capital cost. The 15 per cent allowance for depreciation is now provided for under subclause *i* of the new clause *k*.

BILL 29

1978

An Act to amend The Mining Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Mining Tax Act, 1972*, being chapter 140, ^{s. 1, amended} as amended by the Statutes of Ontario, 1974, chapter 132, section 1, is further amended by adding thereto the following clause:
 - (ib) "social asset" means an asset that is incidental and ancillary to mining and processing operations and that relates directly to the provision of housing, recreational and service facilities, provided that the asset,
 - (i) is necessary to attract or retain employees, and
 - (ii) is available for the use of all employees.
- 2.—(1) Subsection 3 of section 3 of the said Act, as amended ^{s. 3 (3), amended} by the Statutes of Ontario, 1974, chapter 132, section 2, is further amended by adding thereto the following clause:
 - (ea) the proportion of the operating and maintenance expenses related to social assets in Ontario that is directly attributable to the mining operations after deducting therefrom all rents, fees, grants and other payments received during the taxation year by the mine operator in connection therewith, to the extent that such expenses are not otherwise deductible under the regulations.
- (2) Clause *k* of subsection 3 of the said section 3 is repealed ^{s. 3 (3) (k), re-enacted} and the following substituted therefor:
 - (*k*) subject to subsections 3*a*, 3*b* and 3*c*,

- (i) an allowance for depreciation in each taxation year of not more than 15 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings,
- (ii) notwithstanding subclause i, an allowance for depreciation in each taxation year not exceeding 30 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974, that has not been used previously in mining operations, and
- (iii) notwithstanding subclause i or ii, an allowance for depreciation in each taxation year on mining plant, machinery, equipment and buildings acquired at arm's length for use in a new mine or a major expansion of an existing mine after the 7th day of March, 1978 and before the completion of the project in an amount equal to the lesser of,
 - A. the profits for the taxation year from such new mine or major expansion of an existing mine, and
 - B. the undepreciated capital cost to the mine operator of the mining plant, machinery, equipment and buildings at the end of the taxation year before making any deduction under this subclause for the taxation year,

until the full cost thereof has been allowed as an expense under this clause.

s. 3 (3) (l),
repealed

- (3) Clause *l* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is repealed.

s. 3 (3) (n),
amended

- (4) Clause *n* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is amended by striking out "at least 15 per cent and" in the first and second lines.

s. 3,
amended

- (5) The said section 3 is amended by adding thereto the following subsection:

Subclause ii of the new clause *k* incorporates certain provisions of clause *l* of subsection 3 of section 3 of the Act which is repealed by subsection 3 of this section of the Bill.

Subclause iii of the new clause *k* provides that in the case of a new mine or major expansion of an existing mine occurring after the 7th day of March, 1978, qualifying mining assets may be written off at a 100 per cent rate against the profits derived from those operations. This accelerated depreciation will effectively exempt the profits from a new mine, or a major expansion of an existing mine, in Ontario from the mining tax until the additional capital investment related to these operations is recovered by the operator. Assets will qualify for depreciation only if they are purchased at arm's length.

Subsection 3. The provisions of the repealed clause *l* are now contained in subclause ii of clause *k* of subsection 3 of section 3 of the Act, as set out in subsection 2 of this section of the Bill, and in the new subsections 6 and 7 of section 3 of the Act, as set out in subsection 8 of this section of the Bill.

The clause that is being repealed now reads as follows:

(l) notwithstanding clause k, an allowance for depreciation in each taxation year not exceeding 30 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974 that has not been used previously in mining operations until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.

Subsection 4. The amendment removes the present 15 per cent minimum deduction for exploration and development expenses.

Subsection 5. The new subsection provides that, notwithstanding the provisions of clause *k* of subsection 3 of section 3 of the Act, making an allowance for depreciation on all assets relating to mining operations, no allowance for depreciation is permitted to be made in respect of social assets. This amendment is retroactive to April 9, 1974.

Subsection 6. Two new subsections are added to section 3 of the Act.

Subsection 3*b* provides that two conditions precedent must be met before accelerated depreciation of 100 per cent may be written off against the profits from a new mine or major expansion of an existing mine under section 3 (3) (*k*) (iii) of the Act.

1. A new mine or major expansion of an existing mine must be designated by the Minister.
2. The mine operator must elect treatment as a new mine or major expansion of an existing mine under the provisions of section 3 (3) (*k*) (iii) of the Act.

Subsection 3c is added to specify how and when an election must be made under subsection 3b. The election must be made in the return under section 6 of the Act in which a claim for depreciation under section 3 (3) (k) (iii) of the Act is first made. The election is binding upon the person by whom it is made and may not subsequently be altered or revoked.

Subsection 7. The amendment is complementary to section 3 of the Bill.

Subsection 8. Four new subsections are added to section 3 of the Act. Subsection 6 provides for the calculation of the undepreciated capital cost for the purposes of clause k of section 3 (3) of the Act and to facilitate the calculation of the amount of recaptured depreciation to be included in profits pursuant to the new subsection 7.

Subsection 7 provides for the recapture of depreciation allowance deducted in calculating taxable profits for prior years where the operator disposes of any of the mining assets. The provisions in clauses k and l of section 3 (3) of the Act, prior to the amendments in subsection 2 of section 2 of the Bill, required that the proceeds from such disposition be used to reduce the cost of additions, undepreciated balance and deductions otherwise allowable but did not require that any excess be added to taxable profits. This amendment will require that the excess of proceeds of disposition over the undepreciated capital cost be included in profits but recapture will not apply to a realization of an amount in excess of the capital cost of the property.

Subsection 8 provides that where the mining assets are not acquired or disposed of at arm's length, the Minister may determine the capital cost or proceeds of disposition to prevent an artificial step-up in the capital cost which may be depreciated pursuant to clause k of section 3 (3) of the Act.

Subsection 9 is added to provide that in determining whether or not a transaction is "at arm's length", the provisions of section 251 of the *Income Tax Act* (Canada) apply.

(3a) Notwithstanding clause *k* of subsection 3, no allowance for depreciation on any asset that is a social asset shall be deducted under subsection 3. Depreciation on social assets not allowed

(6) The said section 3 is further amended by adding thereto the following subsections: s. 3, amended

(3b) No allowance for depreciation shall be made under subclause iii of clause *k* of subsection 3 unless, Qualification of new mine or major expansion

(a) the new mine or major expansion of an existing mine has been designated by the Minister for the purposes of this subsection; and

(b) the operator or other person liable to pay the tax under this Act has elected that the project be treated as a new mine or a major expansion of an existing mine under subclause iii of clause *k* of subsection 3.

(3c) An election under clause *b* of subsection 3b shall be made in the return delivered under section 6 in which the first claim for depreciation is made for the new mine or the major expansion of an existing mine under subclause iii of clause *k* of subsection 3 and shall be binding upon the person by whom it is made and shall not subsequently be altered or revoked. When election to be made

(7) Clause *a* of subsection 4 of the said section 3 is repealed and the following substituted therefor: s. 3 (4) (a), re-enacted

(a) the cost of mining plant, machinery, equipment and buildings except as provided in subsection 3 and in section 3a.

(8) The said section 3 is further amended by adding thereto the following subsections: s. 3, amended

(6) The undepreciated capital cost of the mining plant, machinery, equipment and buildings, herein referred to as "the assets", at any time means the amount by which the aggregate of, Recapture

(a) the capital cost to the operator of the assets acquired before that time; and

(b) all amounts included in profits by virtue of subsection 7 for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total depreciation deducted for the assets by the operator before that time; and
- (d) for each disposition of any asset or part thereof, the lesser of,
 - (i) the proceeds of disposition of that asset or part, and
 - (ii) the capital cost to the operator of that asset or part.

Idem

(7) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses *c* and *d* of subsection 6 exceeds the aggregate of all amounts determined under clauses *a* and *b* of subsection 6, the excess shall be included in computing the profits for the taxation year.

Minister may make determination

(8) Where mining plant, machinery, equipment or buildings or any part thereof were not acquired or disposed of at arm's length and the Minister considers it necessary or advisable, he may determine in accordance with the regulations the capital cost to the operator and the proceeds of disposition of the mining plant, machinery, equipment and buildings for the purposes of this section.

Meaning of "at arm's length"
R.S.C. 1952, c. 148

(9) For the purposes of this section, the rules determining "at arm's length" in section 251 of the *Income Tax Act* (Canada) apply with necessary modifications.

s. 3a, enacted

3. The said Act is amended by adding thereto the following section:

Interpretation

3a.—(1) In this section,

- (a) "agent" means an agent of Ontario Hydro for the purpose of receiving on behalf of Ontario Hydro any uranium pursuant to a subsequent contract;
- (b) "Ontario Hydro" includes its successors and assigns;
- (c) "original contract" means any contract entered into with Ontario Hydro and approved by the Lieutenant Governor in Council prior to the 8th day of March, 1978 to supply uranium to Ontario Hydro;
- (d) "specified uranium undertaking" means any undertaking in Ontario carried out pursuant to an original or subsequent contract to supply uranium to Ontario Hydro and includes any other undertaking that may be prescribed by the regulations;

SECTION 3. A new section 3a is added to the Act. Generally, this section provides that the new deductions permitted by the various amendments contained in section 2 of the Bill are not to apply to certain uranium undertakings.

Subsection 1 is interpretative. The major definition is that of a "specified uranium undertaking". This is an undertaking carried out pursuant to an original contract (a contract entered into prior to the 8th day of March, 1978 to supply uranium to Ontario Hydro) or pursuant to a subsequent contract (a contract entered into on or after the 8th day of March, 1978 between a uranium supplier under the original contract and any other person, relating to the rights under the original contract to supply uranium to Ontario Hydro). Other undertakings may be prescribed by the regulations.

Subsection 2 provides that no deduction in respect of operating and maintenance expenses of social assets permitted under clause *ea* of section 3 (3) of the Act, added by subsection 1 of section 2 of the Bill shall be made in respect of a specified uranium undertaking.

Subsection 3 provides that an allowance for depreciation on mining assets in each year of not less than 5 per cent shall be made under subclause i of clause *k* of section 3 (3) of the Act for the proportion of the depreciation that is attributable to the operation of a specified uranium undertaking.

Subsection 4 provides that the new allowance for 100 per cent accelerated depreciation applicable to a new mine or major expansion of an existing mine under subclause iii of clause *k* of section 3 (3) of the Act is not applicable for the proportion of depreciation on the mining assets that is attributable to the operation of a specified uranium undertaking.

Subsection 5 provides that at least 15 per cent of the exploration and development expenses permitted under clause *n* of section 3 (3) of the Act must be deducted for the proportion of exploration and development expenses that is attributable to the operation of a specified uranium undertaking.

SECTION 4. Three new subsections are added to section 7 of the Act.

Subsection 1*a* provides that where a mine operator does not make a tax return or a remittance as required under section 6 of the Act, or if the return or remittance is not substantiated by his records, the mine assessor may make his own assessment of any tax, interest or penalties payable by the mine operator.

(e) "subsequent contract" means any contract to supply uranium to Ontario Hydro or any of its agents entered into on or after the 8th day of March, 1978,

(i) made with a party, other than Ontario Hydro, that was a party to the original contract, or

(ii) granting, transferring or assigning any rights under the original contract to supply uranium to Ontario Hydro;

(f) "undertaking" means any mining or processing operation that produces uranium.

(2) Notwithstanding clause *ea* of subsection 3 of section 3, no deduction shall be made under that clause for the proportion of expenses that is attributable to a specified uranium undertaking. No deduction for certain operating expenses

(3) Notwithstanding subclause i of clause *k* of subsection 3 of section 3, an allowance under that clause for depreciation in each taxation year shall be not less than 5 per cent and not more than 15 per cent of the capital cost to the operator computed at the close of a taxation year of the mining plant, machinery, equipment and buildings that is attributable to the operation of a specified uranium undertaking. Allowance for depreciation

(4) Notwithstanding subclause iii of clause *k* of subsection 3 of section 3, no allowance under that clause for depreciation shall be allowed for the proportion of depreciation on any mining plant, machinery, equipment or buildings that is attributable to the operation of a specified uranium undertaking. No allowance for proportion of depreciation attributable to specified uranium undertaking

(5) Notwithstanding clause *n* of subsection 3 of section 3, at least 15 per cent and not more than 100 per cent of the exploration and development expenditures permitted under subclauses i and ii of that clause shall be deducted for the proportion of exploration and development expenses that is attributable to the operation of a specified uranium undertaking. No deduction for exploration and development expenditures

4. Section 7 of the said Act is amended by adding thereto the following subsections: s. 7, amended

(1a) Where an operator fails to make a return under section 6 or a remittance as required under this Act or the regulations or if his returns are not substantiated by his records and any information furnished under this Act, the Assessment where no return

mine assessor may assess the tax, interest or penalties payable by the operator.

Notice of
assessment

(1*b*) Where the mine assessor has made an assessment under subsection 1*a*, he may send to the operator or person liable to pay the tax a notice of assessment requiring that the amount of the assessment made under subsection 1*a* be paid to the Minister within one month after the mailing of the notice of assessment, whether or not the assessment is appealed under this Act.

.

Assessment
deemed valid

(4) An assessment, subject to being varied or vacated on an appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

s. 7*a*,
enacted

5. The said Act is further amended by adding thereto the following section:

Reassessment

7*a*. The mine assessor may at any time assess tax, interest or penalties, or notify in writing any person by whom a return or other subject of tax for a taxation year has been filed that no tax is payable for the taxation year, and may,

(*a*) at any time, if the operator or person filing the return,

(i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or

(ii) has failed to file the financial information with the return required to be filed under section 6, or

(iii) has been negligent in supplying any information under this Act, or

(iv) has filed with the Minister a waiver in a prescribed form within four years from the date of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year; and

(*b*) within four years from the date referred to in sub-clause iv of clause *a*, in any other case,

Subsection 1*b* provides that where an assessment is made under subsection 1*a*, the mine assessor may send a notice of assessment to the mine operator requiring payment of the amount of the assessment. Where such a notice is sent, payment must be made to the Minister within thirty days after the mailing of the notice.

Subsection 4 provides that, subject to an assessment being varied or vacated on appeal and subject to reassessment, an assessment is deemed valid and binding notwithstanding the fact that it may contain any error, defect or omission.

SECTION 5. This section adds a new section 7*a* to the Act. Section 7*a* provides that the mine assessor may reassess tax, interest or penalties against a mine operator for a period of up to four years after the date of an original assessment. Where there has been a misrepresentation, a failure to file information required under the Act, or negligence on the part of the mine operator in filing a return, the mine assessor may reassess tax in any year. This provision allowing reassessment for a period back four years is the same as the period allowed under the *Income Tax Act* (Canada).

SECTION 6. This section adds a new section 11*a* to the Act. Subsection 1 provides for the confidentiality of all information communicated under the Act. Subsection 2 imposes a fine of not more than \$200 for the contravention of the confidentiality provisions. Subsection 3 permits the Minister of Natural Resources to enter into agreements with the Government of Canada or the government of any province to exchange information and to allow access to information obtained under the various taxing statutes of those jurisdictions.

SECTION 7. The new subsection provides for a penalty based on the difference between the initial tax paid two months after the end of the taxation year and the tax payable as set out in the notice of assessment sent to the person liable to pay the tax.

SECTION 8. This section amends section 23 (1) of the Act which is the authority of the Lieutenant Governor in Council to make regulations.

Subsection 1 clarifies the authority to make regulations relating to a determination by the mine assessor under section 3 (3) (c) of the Act in appraising the value of mineral substances at the pits mouth.

Subsection 2 enlarges the authority to make regulations to provide for the manner in which the mine assessor is to make his calculations, the recapture on the sale of depreciated assets, the manner in which capital cost and proceeds of disposition are to be determined, the methods to be used in computing deductions available or attributable to a specified uranium undertaking, and to authorize the prescribing of an undertaking as a specified uranium undertaking.

reassess or make additional assessments or assess a tax, interest or penalties, as the circumstances require.

6. The said Act is further amended by adding thereto the following section: s. 11a. enacted

11a.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. Confidentiality

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Penalty

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the Government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. Agreements to exchange information

7. Section 15 of the said Act is amended by adding thereto the following subsection: s. 15. amended

(4a) Where the amount of tax paid under subsection 1 of section 2 is less than the amount payable as shown in the notice of assessment sent under section 7, the person liable to pay the tax shall pay a penalty of 10 per cent of the outstanding balance of tax and such additional amount shall for all purposes be deemed to be a tax payable under this Act. Penalty

- 8.—(1) Clause *c* of subsection 1 of section 23 of the said Act is repealed and the following substituted therefor: s. 23 (1) (c), re-enacted

(c) determining the amounts to be included or allowed as deductions by the mine assessor in appraising the value of mineral substances at the pits mouth for the purposes of clause *c* of subsection 3 of section 3.

- (2) Clauses *ca* and *cb* of subsection 1 of the said section 23, as enacted by the Statutes of Ontario, 1974, chapter 132, section 3, are repealed and the following substituted therefor: s. 23 (1) (ca, cb), re-enacted

- (ca) prescribing the manner of determining and the matters to be taken into account in determining whether or not,
 - (i) there is to be disaggregation of a mine under subsection 2a of section 3, and
 - (ii) there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subclause iii of clause k of subsection 3 of section 3;
- (cb) prescribing or determining anything that, by this Act, is required or permitted to be prescribed or determined by the regulations;
- (cc) providing for the manner of determining the time at which a mine project is complete or a mine is brought into active operation;
- (cd) authorizing and providing for the recapture of depreciation where such recapture is not otherwise authorized and provided for in this Act;
- (ce) providing for the manner of determining the capital cost and proceeds of disposition for the purposes of subsection 8 of section 3 and the regulations;
- (cf) prescribing the methods to be used in calculating the proportion of allowances and deductions available or attributable to a specified uranium undertaking;
- (cg) prescribing an undertaking as a specified uranium undertaking.

Commence-
ment

9.—(1) This Act, except section 1 and subsections 1 and 5 of section 2, shall be deemed to have come into force on the 8th day of March, 1978.

Idem

(2) Section 1 and subsections 1 and 5 of section 2 shall be deemed to have come into force on the 9th day of April, 1974.

Short title

10. The short title of this Act is *The Mining Tax Amendment Act, 1978*.

SECTION 9. This section provides for the coming into force of the Act.

An Act to amend
The Mining Tax Act, 1972

1st Reading

March 7th, 1978

2nd Reading

3rd Reading

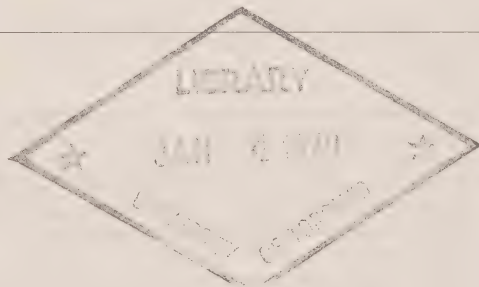
THE HON. F. S. MILLER
Minister of Natural Resources

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to amend
The Mining Tax Act, 1972**

THE HON. J. A. C. AULD
Minister of Natural Resources and Minister of Energy



(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The section adds the definition of a "social asset" and is complementary to subsections 1 and 5 of section 2 of the Bill.

SECTION 2.—Subsection 1. The subsection adds clause *ea* to the deductions permitted to be made under subsection 3 of section 3 of the Act. A mine operator is permitted to deduct the proportion of operating and maintenance expenses of social assets attributable to mining operations provided that those expenses are not otherwise deductible under any other provision of the Act or the regulations. In computing the amount of operating and maintenance expenses, there must be deducted the amount of all rents, fees, grants and other payments received during the year in respect of the operation of the social asset. This amendment is retroactive to April 9, 1974.

Subsection 2. Clause *k* of subsection 3 of section 3 of the Act now reads as follows:

- (*k*) *an allowance for depreciation in each taxation year of not less than 5 per cent and not more than 15 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.*

The amendment removes the mandatory minimum deduction for depreciation of not less than 5 per cent of the capital cost. The 15 per cent allowance for depreciation is now provided for under subclause *i* of the new clause *k*.

BILL 29

1978

An Act to amend The Mining Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Mining Tax Act, 1972*, being chapter 140, ^{s. 1, amended} as amended by the Statutes of Ontario, 1974, chapter 132, section 1, is further amended by adding thereto the following clause:

(ib) "social asset" means an asset that is incidental and ancillary to mining and processing operations and that relates directly to the provision of housing, recreational and service facilities, provided that the asset,

(i) is necessary to attract or retain employees, and

(ii) is available for the use of all employees.

- 2.—(1) Subsection 3 of section 3 of the said Act, as amended ^{s. 3(3), amended} by the Statutes of Ontario, 1974, chapter 132, section 2, is further amended by adding thereto the following clause:

(ea) the proportion of the operating and maintenance expenses related to social assets in Ontario that is directly attributable to the mining operations after deducting therefrom all rents, fees, grants and other payments received during the taxation year by the mine operator in connection therewith, to the extent that such expenses are not otherwise deductible under the regulations.

- (2) Clause *k* of subsection 3 of the said section 3 is repealed ^{s. 3(3) (k), re-enacted} and the following substituted therefor:

(k) subject to subsections 3a, 3b and 3c,

- (i) an allowance for depreciation in each taxation year of not more than 15 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings,
- (ii) notwithstanding subclause i, an allowance for depreciation in each taxation year not exceeding 30 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974, that has not been used previously in mining operations, and
- (iii) notwithstanding subclause i or ii, an allowance for depreciation in each taxation year on mining plant, machinery, equipment and buildings acquired at arm's length for use in a new mine or a major expansion of an existing mine after the 7th day of March, 1978 and before the completion of the project in an amount not exceeding the lesser of,
 - A. the profits for the taxation year from such new mine or major expansion of an existing mine, and
 - B. the undepreciated capital cost to the mine operator of the mining plant, machinery, equipment and buildings at the end of the taxation year before making any deduction under this subclause for the taxation year,

until the full cost thereof has been allowed as an expense under this clause.

s. 3 (3) (l),
repealed

- (3) Clause *l* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is repealed.

s. 3 (3) (n),
amended

- (4) Clause *n* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is amended by striking out "at least 15 per cent and" in the first and second lines.

s. 3,
amended

- (5) The said section 3 is amended by adding thereto the following subsection:

Subclause ii of the new clause *k* incorporates certain provisions of clause *l* of subsection 3 of section 3 of the Act which is repealed by subsection 3 of this section of the Bill.

Subclause iii of the new clause *k* provides that in the case of a new mine or major expansion of an existing mine occurring after the 7th day of March, 1978, qualifying mining assets may be written off at a 100 per cent rate against the profits derived from those operations. This accelerated depreciation will effectively exempt the profits from a new mine, or a major expansion of an existing mine, in Ontario from the mining tax until the additional capital investment related to these operations is recovered by the operator. Assets will qualify for depreciation only if they are purchased at arm's length.

Subsection 3. The provisions of the repealed clause *l* are now contained in subclause ii of clause *k* of subsection 3 of section 3 of the Act, as set out in subsection 2 of this section of the Bill, and in the new subsections 6 and 7 of section 3 of the Act, as set out in subsection 8 of this section of the Bill.

The clause that is being repealed now reads as follows:

(l) notwithstanding clause k, an allowance for depreciation in each taxation year not exceeding 30 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974 that has not been used previously in mining operations until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.

Subsection 4. The amendment removes the present 15 per cent minimum deduction for exploration and development expenses.

Subsection 5. The new subsection provides that, notwithstanding the provisions of clause *k* of subsection 3 of section 3 of the Act, making an allowance for depreciation on all assets relating to mining operations, no allowance for depreciation is permitted to be made in respect of social assets. This amendment is retroactive to April 9, 1974.

Subsection 6. Two new subsections are added to section 3 of the Act.

Subsection 3*b* provides that two conditions precedent must be met before accelerated depreciation of 100 per cent may be written off against the profits from a new mine or major expansion of an existing mine under section 3 (3) (*k*) (iii) of the Act.

1. A new mine or major expansion of an existing mine must be designated by the Minister.
2. The mine operator must elect treatment as a new mine or major expansion of an existing mine under the provisions of section 3 (3) (*k*) (iii) of the Act.

Subsection 3c is added to specify how and when an election must be made under subsection 3b. The election must be made in the return under section 6 of the Act in which a claim for depreciation under section 3 (3) (k) (iii) of the Act is first made. The election is binding upon the person by whom it is made and may not subsequently be altered or revoked.

Subsection 7. The amendment is complementary to section 3 of the Bill.

Subsection 8. Four new subsections are added to section 3 of the Act. Subsection 6 provides for the calculation of the undepreciated capital cost for the purposes of clause k of section 3 (3) of the Act and to facilitate the calculation of the amount of recaptured depreciation to be included in profits pursuant to the new subsection 7.

Subsection 7 provides for the recapture of depreciation allowance deducted in calculating taxable profits for prior years where the operator disposes of any of the mining assets. The provisions in clauses k and l of section 3 (3) of the Act, prior to the amendments in subsection 2 of section 2 of the Bill, required that the proceeds from such disposition be used to reduce the cost of additions, undepreciated balance and deductions otherwise allowable but did not require that any excess be added to taxable profits. This amendment will require that the excess of proceeds of disposition over the undepreciated capital cost be included in profits but recapture will not apply to a realization of an amount in excess of the capital cost of the property.

Subsection 8 provides that where the mining assets are not acquired or disposed of at arm's length, the Minister may determine the capital cost or proceeds of disposition to prevent an artificial step-up in the capital cost which may be depreciated pursuant to clause k of section 3 (3) of the Act.

Subsection 9 is added to provide that in determining whether or not a transaction is "at arm's length", the provisions of section 251 of the *Income Tax Act* (Canada) apply.

(3a) Notwithstanding clause *k* of subsection 3, no allowance for depreciation on any asset that is a social asset shall be deducted under subsection 3. Depreciation on social assets not allowed

(6) The said section 3 is further amended by adding thereto the following subsections: s. 3, amended

(3b) No allowance for depreciation shall be made under subclause iii of clause *k* of subsection 3 unless, Qualification of new mine or major expansion

(a) the new mine or major expansion of an existing mine has been designated by the Minister for the purposes of this subsection; and

(b) the operator or other person liable to pay the tax under this Act has elected that the project be treated as a new mine or a major expansion of an existing mine under subclause iii of clause *k* of subsection 3.

(3c) An election under clause *b* of subsection 3b shall be made in the return delivered under section 6 in which the first claim for depreciation is made for the new mine or the major expansion of an existing mine under subclause iii of clause *k* of subsection 3 and shall be binding upon the person by whom it is made and shall not subsequently be altered or revoked. When election to be made

(7) Clause *a* of subsection 4 of the said section 3 is repealed and the following substituted therefor: s. 3 (4) (a), re-enacted

(a) the cost of mining plant, machinery, equipment and buildings except as provided in subsection 3 and in section 3a.

(8) The said section 3 is further amended by adding thereto the following subsections: s. 3, amended

(6) The undepreciated capital cost of the mining plant, machinery, equipment and buildings, herein referred to as "the assets", at any time means the amount by which the aggregate of, Recapture

(a) the capital cost to the operator of the assets acquired before that time; and

(b) all amounts included in profits by virtue of subsection 7 for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total depreciation deducted for the assets by the operator before that time; and
- (d) for each disposition of any asset or part thereof, the lesser of,
 - (i) the proceeds of disposition of that asset or part, and
 - (ii) the capital cost to the operator of that asset or part.

Idem

(7) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses *c* and *d* of subsection 6 exceeds the aggregate of all amounts determined under clauses *a* and *b* of subsection 6, the excess shall be included in computing the profits for the taxation year.

Minister may make determination

(8) Where mining plant, machinery, equipment or buildings or any part thereof were not acquired or disposed of at arm's length and the Minister considers it necessary or advisable, he may determine in accordance with the regulations the capital cost to the operator and the proceeds of disposition of the mining plant, machinery, equipment and buildings for the purposes of this section.

Meaning of "at arm's length"
R.S.C. 1952, c. 148

(9) For the purposes of this section, the rules determining "at arm's length" in section 251 of the *Income Tax Act* (Canada) apply with necessary modifications.

s. 3a, enacted

3. The said Act is amended by adding thereto the following section:

Interpretation

3a.—(1) In this section,

- (a) "agent" means an agent of Ontario Hydro for the purpose of receiving on behalf of Ontario Hydro any uranium pursuant to a subsequent contract;
- (b) "Ontario Hydro" includes its successors and assigns;
- (c) "original contract" means any contract entered into with Ontario Hydro and approved by the Lieutenant Governor in Council subsequent to the 31st day of December, 1977 and prior to the 8th day of March, 1978 to supply uranium to Ontario Hydro;
- (d) "specified uranium undertaking" means any undertaking in Ontario carried out pursuant to an original or subsequent contract to supply uranium to Ontario Hydro and includes any other undertaking that may be prescribed by the regulations;

SECTION 3. A new section 3a is added to the Act. Generally, this section provides that the new deductions permitted by the various amendments contained in section 2 of the Bill are not to apply to certain uranium undertakings.

Subsection 1 is interpretative. The major definition is that of a "specified uranium undertaking". This is an undertaking carried out pursuant to an original contract (a contract entered into prior to the 8th day of March, 1978 to supply uranium to Ontario Hydro) or pursuant to a subsequent contract (a contract entered into on or after the 8th day of March, 1978 between a uranium supplier under the original contract and any other person, relating to the rights under the original contract to supply uranium to Ontario Hydro). Other undertakings may be prescribed by the regulations.

Subsection 2 provides that no deduction in respect of operating and maintenance expenses of social assets permitted under clause *ea* of section 3 (3) of the Act, added by subsection 1 of section 2 of the Bill shall be made in respect of a specified uranium undertaking.

Subsection 3 provides that an allowance for depreciation on mining assets in each year of not less than 5 per cent shall be made under subclause *i* of clause *k* of section 3 (3) of the Act for the proportion of the depreciation that is attributable to the operation of a specified uranium undertaking.

Subsection 4 provides that the new allowance for 100 per cent accelerated depreciation applicable to a new mine or major expansion of an existing mine under subclause *iii* of clause *k* of section 3 (3) of the Act is not applicable for the proportion of depreciation on the mining assets that is attributable to the operation of a specified uranium undertaking.

Subsection 5 provides that at least 15 per cent of the exploration and development expenses permitted under clause *n* of section 3 (3) of the Act must be deducted for the proportion of exploration and development expenses that is attributable to the operation of a specified uranium undertaking.

SECTION 4. Three new subsections are added to section 7 of the Act.

Subsection 1*a* provides that where a mine operator does not make a tax return or a remittance as required under section 6 of the Act, or if the return or remittance is not substantiated by his records, the mine assessor may make his own assessment of any tax, interest or penalties payable by the mine operator.

(e) "subsequent contract" means any contract to supply uranium to Ontario Hydro or any of its agents entered into on or after the 8th day of March, 1978,

(i) made with a party, other than Ontario Hydro, that was a party to the original contract, or

(ii) granting, transferring or assigning any rights under the original contract to supply uranium to Ontario Hydro;

(f) "undertaking" means any mining or processing operation that produces uranium.

(2) Notwithstanding clause *ea* of subsection 3 of section 3, no deduction shall be made under that clause for the proportion of expenses that is attributable to a specified uranium undertaking. No deduction for certain operating expenses

(3) Notwithstanding subclause i of clause *k* of subsection 3 of section 3, an allowance under that clause for depreciation in each taxation year shall be not less than 5 per cent and not more than 15 per cent of the capital cost to the operator computed at the close of a taxation year of the mining plant, machinery, equipment and buildings that is attributable to the operation of a specified uranium undertaking. Allowance for depreciation

(4) Notwithstanding subclause iii of clause *k* of subsection 3 of section 3, no allowance under that clause for depreciation shall be allowed for the proportion of depreciation on any mining plant, machinery, equipment or buildings that is attributable to the operation of a specified uranium undertaking. No allowance for proportion of depreciation attributable to specified uranium undertaking

(5) Notwithstanding clause *n* of subsection 3 of section 3, at least 15 per cent and not more than 100 per cent of the exploration and development expenditures permitted under subclauses i and ii of that clause shall be deducted for the proportion of exploration and development expenses that is attributable to the operation of a specified uranium undertaking. Deduction for exploration and development expenditures

4. Section 7 of the said Act is amended by adding thereto the following subsections: s. 7, amended

(1a) Where an operator fails to make a return under section 6 or a remittance as required under this Act or the regulations or if his returns are not substantiated by his records and any information furnished under this Act, the Assessment where no return

mine assessor may assess the tax, interest or penalties payable by the operator.

Notice of
assessment

(1*b*) Where the mine assessor has made an assessment under subsection 1*a*, he may send to the operator or person liable to pay the tax a notice of assessment requiring that the amount of the assessment made under subsection 1*a* be paid to the Minister within one month after the mailing of the notice of assessment, whether or not the assessment is appealed under this Act.

.

Assessment
deemed valid

(4) An assessment, subject to being varied or vacated on an appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

s. 7*a*,
enacted

5. The said Act is further amended by adding thereto the following section:

Reassessment

7*a*. The mine assessor may at any time assess tax, interest or penalties, or notify in writing any person by whom a return for a taxation year has been filed that no tax is payable for the taxation year, and may,

(*a*) at any time, if the operator or person filing the return,

(i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or

(ii) has failed to file the financial information with the return required to be filed under section 6, or

(iii) has been negligent in supplying any information under this Act, or

(iv) has filed with the Minister a waiver in a prescribed form within four years from the date of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year; and

(*b*) within four years from the date referred to in sub-clause iv of clause *a*, in any other case,

Subsection 1*b* provides that where an assessment is made under subsection 1*a*, the mine assessor may send a notice of assessment to the mine operator requiring payment of the amount of the assessment. Where such a notice is sent, payment must be made to the Minister within thirty days after the mailing of the notice.

Subsection 4 provides that, subject to an assessment being varied or vacated on appeal and subject to reassessment, an assessment is deemed valid and binding notwithstanding the fact that it may contain any error, defect or omission.

SECTION 5. This section adds a new section 7*a* to the Act. Section 7*a* provides that the mine assessor may reassess tax, interest or penalties against a mine operator for a period of up to four years after the date of an original assessment. Where there has been a misrepresentation, a failure to file information required under the Act, or negligence on the part of the mine operator in filing a return, the mine assessor may reassess tax in any year. This provision allowing reassessment for a period back four years is the same as the period allowed under the *Income Tax Act* (Canada).

SECTION 6. This section adds a new section 11*a* to the Act. Subsection 1 provides for the confidentiality of all information communicated under the Act. Subsection 2 imposes a fine of not more than \$200 for the contravention of the confidentiality provisions. Subsection 3 permits the Minister of Natural Resources to enter into agreements with the Government of Canada or the government of any province to exchange information and to allow access to information obtained under the various taxing statutes of those jurisdictions.

SECTION 7. The new subsection provides for a penalty based on the difference between the initial tax paid two months after the end of the taxation year and the tax payable as set out in the notice of assessment sent to the person liable to pay the tax.

SECTION 8. This section amends section 23 (1) of the Act which is the authority of the Lieutenant Governor in Council to make regulations.

Subsection 1 clarifies the authority to make regulations relating to a determination by the mine assessor under section 3 (3) (c) of the Act in appraising the value of mineral substances at the pits mouth.

Subsection 2 enlarges the authority to make regulations to provide for the manner in which the mine assessor is to make his calculations, the recapture on the sale of depreciated assets, the manner in which capital cost and proceeds of disposition are to be determined, the methods to be used in computing deductions available or attributable to a specified uranium undertaking, and to authorize the prescribing of an undertaking as a specified uranium undertaking.

reassess or make additional assessments or assess a tax, interest or penalties, as the circumstances require.

6. The said Act is further amended by adding thereto the following section: s. 11a,
enacted

11a.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. Confidentiality

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Penalty

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the Government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. Agreements
to exchange
information

7. Section 15 of the said Act is amended by adding thereto the following subsection: s. 15,
amended

(4a) Every person who wilfully fails to comply with this Act at the time or times provided, Penalty

(a) by failing to make a payment of tax under section 2;

(b) by making a payment of tax under section 2 that is an unreasonable estimate of the tax payable by him or is a deliberately underestimated amount of the tax payable by him; or

(c) by failing to file a return as required by section 6,

is liable to a penalty of 10 per cent of the amount by which the amount of tax payable as shown in the notice of assessment sent under section 7 exceeds the amount of tax, if any, paid under section 2, and such additional amount shall for all purposes be deemed to be a tax payable under this Act.

- 8.—(1) Clause *c* of subsection 1 of section 23 of the said Act is repealed and the following substituted therefor: s. 23 (1) (c),
re-enacted

- (c) determining the amounts to be included or allowed as deductions by the mine assessor in appraising the value of mineral substances at the pits mouth for the purposes of clause *c* of subsection 3 of section 3.

s. 23 (1) (*ca, cb*),
re-enacted

- (2) Clauses *ca* and *cb* of subsection 1 of the said section 23, as enacted by the Statutes of Ontario, 1974, chapter 132, section 3, are repealed and the following substituted therefor:

- (*ca*) prescribing the manner of determining and the matters to be taken into account in determining whether or not,
 - (i) there is to be disaggregation of a mine under subsection 2*a* of section 3, and
 - (ii) there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subclause iii of clause *k* of subsection 3 of section 3;
- (*cb*) prescribing or determining anything that, by this Act, is required or permitted to be prescribed or determined by the regulations;
- (*cc*) providing for the manner of determining the time at which a mine project is complete or a mine is brought into active operation;
- (*cd*) authorizing and providing for the recapture of depreciation where such recapture is not otherwise authorized and provided for in this Act;
- (*ce*) providing for the manner of determining the capital cost and proceeds of disposition for the purposes of subsection 8 of section 3 and the regulations;
- (*cf*) prescribing the methods to be used in calculating the proportion of allowances and deductions available or attributable to a specified uranium undertaking;
- (*cg*) prescribing an undertaking as a specified uranium undertaking.

Commence-
ment

- 9.—(1) This Act, except section 1 and subsections 1 and 5 of section 2, shall be deemed to have come into force on the 8th day of March, 1978.

SECTION 9. This section provides for the coming into force of the Act.

(2) Section 1 and subsections 1 and 5 of section 2 shall be ^{Idem} deemed to have come into force on the 10th day of April, 1974.

10. The short title of this Act is *The Mining Tax Amendment Act*, ^{Short title} 1978.

An Act to amend
The Mining Tax Act, 1972

1st Reading

March 7th, 1978

2nd Reading

December 12th, 1978

3rd Reading

THE HON. J. A. C. ATLD
Minister of Natural Resources and
Minister of Energy

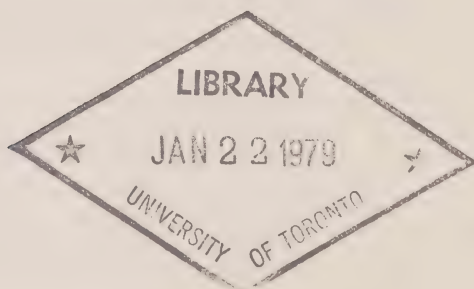
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2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978, ✓

An Act to amend
The Mining Tax Act, 1972

THE HON. J. A. C. AULD
Minister of Natural Resources and Minister of Energy



BILL 29

1978

An Act to amend The Mining Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Mining Tax Act, 1972*, being chapter 140, as amended by the Statutes of Ontario, 1974, chapter 132, section 1, is further amended by adding thereto the following clause: s. 1,
amended

(ib) “social asset” means an asset that is incidental and ancillary to mining and processing operations and that relates directly to the provision of housing, recreational and service facilities, provided that the asset,

(i) is necessary to attract or retain employees, and

(ii) is available for the use of all employees.

- 2.—(1) Subsection 3 of section 3 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 132, section 2, is further amended by adding thereto the following clause: s. 3 (3),
amended

(ea) the proportion of the operating and maintenance expenses related to social assets in Ontario that is directly attributable to the mining operations after deducting therefrom all rents, fees, grants and other payments received during the taxation year by the mine operator in connection therewith, to the extent that such expenses are not otherwise deductible under the regulations.

- (2) Clause *k* of subsection 3 of the said section 3 is repealed and the following substituted therefor: s. 3 (3) (*k*),
re-enacted

(*k*) subject to subsections 3*a*, 3*b* and 3*c*,

- (i) an allowance for depreciation in each taxation year of not more than 15 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings,
- (ii) notwithstanding subclause i, an allowance for depreciation in each taxation year not exceeding 30 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974, that has not been used previously in mining operations, and
- (iii) notwithstanding subclause i or ii, an allowance for depreciation in each taxation year on mining plant, machinery, equipment and buildings acquired at arm's length for use in a new mine or a major expansion of an existing mine after the 7th day of March, 1978 and before the completion of the project in an amount not exceeding the lesser of,
 - A. the profits for the taxation year from such new mine or major expansion of an existing mine, and
 - B. the undepreciated capital cost to the mine operator of the mining plant, machinery, equipment and buildings at the end of the taxation year before making any deduction under this subclause for the taxation year,

until the full cost thereof has been allowed as an expense under this clause.

s. 3 (3) (l),
repealed

- (3) Clause *l* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is repealed.

s. 3 (3) (n),
amended

- (4) Clause *n* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is amended by striking out "at least 15 per cent and" in the first and second lines.

s. 3,
amended

- (5) The said section 3 is amended by adding thereto the following subsection:

(3a) Notwithstanding clause *k* of subsection 3, no allowance for depreciation on any asset that is a social asset shall be deducted under subsection 3. Depreciation on social assets not allowed

(6) The said section 3 is further amended by adding thereto the following subsections: s. 3, amended

(3b) No allowance for depreciation shall be made under subclause iii of clause *k* of subsection 3 unless, Qualification of new mine or major expansion

(a) the new mine or major expansion of an existing mine has been designated by the Minister for the purposes of this subsection; and

(b) the operator or other person liable to pay the tax under this Act has elected that the project be treated as a new mine or a major expansion of an existing mine under subclause iii of clause *k* of subsection 3.

(3c) An election under clause *b* of subsection 3b shall be made in the return delivered under section 6 in which the first claim for depreciation is made for the new mine or the major expansion of an existing mine under subclause iii of clause *k* of subsection 3 and shall be binding upon the person by whom it is made and shall not subsequently be altered or revoked. When election to be made

(7) Clause *a* of subsection 4 of the said section 3 is repealed and the following substituted therefor: s. 3 (4) (a), re-enacted

(a) the cost of mining plant, machinery, equipment and buildings except as provided in subsection 3 and in section 3a.

(8) The said section 3 is further amended by adding thereto the following subsections: s. 3, amended

(6) The undepreciated capital cost of the mining plant, machinery, equipment and buildings, herein referred to as "the assets", at any time means the amount by which the aggregate of, Recapture

(a) the capital cost to the operator of the assets acquired before that time; and

(b) all amounts included in profits by virtue of subsection 7 for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total depreciation deducted for the assets by the operator before that time; and
- (d) for each disposition of any asset or part thereof, the lesser of,
 - (i) the proceeds of disposition of that asset or part, and
 - (ii) the capital cost to the operator of that asset or part.

Idem

(7) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses *c* and *d* of subsection 6 exceeds the aggregate of all amounts determined under clauses *a* and *b* of subsection 6, the excess shall be included in computing the profits for the taxation year.

Minister may make determination

(8) Where mining plant, machinery, equipment or buildings or any part thereof were not acquired or disposed of at arm's length and the Minister considers it necessary or advisable, he may determine in accordance with the regulations the capital cost to the operator and the proceeds of disposition of the mining plant, machinery, equipment and buildings for the purposes of this section.

Meaning of "at arm's length"
R.S.C. 1952, c. 148

(9) For the purposes of this section, the rules determining "at arm's length" in section 251 of the *Income Tax Act* (Canada) apply with necessary modifications.

s. 3a, enacted

3. The said Act is amended by adding thereto the following section:

Interpretation

3a.—(1) In this section,

- (a) "agent" means an agent of Ontario Hydro for the purpose of receiving on behalf of Ontario Hydro any uranium pursuant to a subsequent contract;
- (b) "Ontario Hydro" includes its successors and assigns;
- (c) "original contract" means any contract entered into with Ontario Hydro and approved by the Lieutenant Governor in Council subsequent to the 31st day of December, 1977 and prior to the 8th day of March, 1978 to supply uranium to Ontario Hydro;
- (d) "specified uranium undertaking" means any undertaking in Ontario carried out pursuant to an original or subsequent contract to supply uranium to Ontario Hydro and includes any other undertaking that may be prescribed by the regulations;

(e) "subsequent contract" means any contract to supply uranium to Ontario Hydro or any of its agents entered into on or after the 8th day of March, 1978,

(i) made with a party, other than Ontario Hydro, that was a party to the original contract, or

(ii) granting, transferring or assigning any rights under the original contract to supply uranium to Ontario Hydro;

(f) "undertaking" means any mining or processing operation that produces uranium.

(2) Notwithstanding clause *ea* of subsection 3 of section 3, no deduction shall be made under that clause for the proportion of expenses that is attributable to a specified uranium undertaking. No deduction for certain operating expenses

(3) Notwithstanding subclause i of clause *k* of subsection 3 of section 3, an allowance under that clause for depreciation in each taxation year shall be not less than 5 per cent and not more than 15 per cent of the capital cost to the operator computed at the close of a taxation year of the mining plant, machinery, equipment and buildings that is attributable to the operation of a specified uranium undertaking. Allowance for depreciation

(4) Notwithstanding subclause iii of clause *k* of subsection 3 of section 3, no allowance under that clause for depreciation shall be allowed for the proportion of depreciation on any mining plant, machinery, equipment or buildings that is attributable to the operation of a specified uranium undertaking. No allowance for proportion of depreciation attributable to specified uranium undertaking

(5) Notwithstanding clause *n* of subsection 3 of section 3, at least 15 per cent and not more than 100 per cent of the exploration and development expenditures permitted under subclauses i and ii of that clause shall be deducted for the proportion of exploration and development expenses that is attributable to the operation of a specified uranium undertaking. Deduction for exploration and development expenditures

4. Section 7 of the said Act is amended by adding thereto the following subsections: s. 7, amended

(1a) Where an operator fails to make a return under section 6 or a remittance as required under this Act or the regulations or if his returns are not substantiated by his records and any information furnished under this Act, the Assessment where no return

mine assessor may assess the tax, interest or penalties payable by the operator.

Notice of
assessment

(1*b*) Where the mine assessor has made an assessment under subsection 1*a*, he may send to the operator or person liable to pay the tax a notice of assessment requiring that the amount of the assessment made under subsection 1*a* be paid to the Minister within one month after the mailing of the notice of assessment, whether or not the assessment is appealed under this Act.

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Assessment
deemed valid

(4) An assessment, subject to being varied or vacated on an appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

s. 7*a*,
enacted

5. The said Act is further amended by adding thereto the following section:

Reassessment

7*a*. The mine assessor may at any time assess tax, interest or penalties, or notify in writing any person by whom a return for a taxation year has been filed that no tax is payable for the taxation year, and may,

(*a*) at any time, if the operator or person filing the return,

(i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or

(ii) has failed to file the financial information with the return required to be filed under section 6, or

(iii) has been negligent in supplying any information under this Act, or

(iv) has filed with the Minister a waiver in a prescribed form within four years from the date of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year; and

(*b*) within four years from the date referred to in sub-clause iv of clause *a*, in any other case,

reassess or make additional assessments or assess a tax, interest or penalties, as the circumstances require.

6. The said Act is further amended by adding thereto the following section: s. 11a,
enacted

11a.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. Confidentiality

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Penalty

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the Government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. Agreements
to exchange
information

7. Section 15 of the said Act is amended by adding thereto the following subsection: s. 15,
amended

(4a) Every person who wilfully fails to comply with this Act at the time or times provided, Penalty

(a) by failing to make a payment of tax under section 2;

(b) by making a payment of tax under section 2 that is an unreasonable estimate of the tax payable by him or is a deliberately underestimated amount of the tax payable by him; or

(c) by failing to file a return as required by section 6,

is liable to a penalty of 10 per cent of the amount by which the amount of tax payable as shown in the notice of assessment sent under section 7 exceeds the amount of tax, if any, paid under section 2, and such additional amount shall for all purposes be deemed to be a tax payable under this Act.

- 8.—(1) Clause c of subsection 1 of section 23 of the said Act is repealed and the following substituted therefor: s. 23 (1) (c),
re-enacted

- (c) determining the amounts to be included or allowed as deductions by the mine assessor in appraising the value of mineral substances at the pits mouth for the purposes of clause *c* of subsection 3 of section 3.

s. 23 (1) (*ca, cb*),
re-enacted

- (2) Clauses *ca* and *cb* of subsection 1 of the said section 23, as enacted by the Statutes of Ontario, 1974, chapter 132, section 3, are repealed and the following substituted therefor:

- (*ca*) prescribing the manner of determining and the matters to be taken into account in determining whether or not,
 - (i) there is to be disaggregation of a mine under subsection 2*a* of section 3, and
 - (ii) there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subclause iii of clause *k* of subsection 3 of section 3;
- (*cb*) prescribing or determining anything that, by this Act, is required or permitted to be prescribed or determined by the regulations;
- (*cc*) providing for the manner of determining the time at which a mine project is complete or a mine is brought into active operation;
- (*cd*) authorizing and providing for the recapture of depreciation where such recapture is not otherwise authorized and provided for in this Act;
- (*ce*) providing for the manner of determining the capital cost and proceeds of disposition for the purposes of subsection 8 of section 3 and the regulations;
- (*cf*) prescribing the methods to be used in calculating the proportion of allowances and deductions available or attributable to a specified uranium undertaking;
- (*cg*) prescribing an undertaking as a specified uranium undertaking.

Commence-
ment

- 9.—(1) This Act, except section 1 and subsections 1 and 5 of section 2, shall be deemed to have come into force on the 8th day of March, 1978.

- (2) Section 1 and subsections 1 and 5 of section 2 shall be ^{Idem} deemed to have come into force on the 10th day of April, 1974.

10. The short title of this Act is *The Mining Tax Amendment Act*, ^{Short title} 1978.

An Act to amend
The Mining Tax Act, 1972

1st Reading

March 7th, 1978

2nd Reading

December 12th, 1978

3rd Reading

December 13th, 1978

THE HON. J. A. C. AULD
Minister of Natural Resources and
Minister of Energy

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to amend
The Municipal Elections Act, 1977**



THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

TORONTO

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EXPLANATORY NOTES

SECTION 1. Section 9 of the Act now reads as follows:

9.—(1) *Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year.*

(2) *The holders of offices hold office until their successors are elected and the newly elected council or local board is organized.*

The Municipal Elections Act, 1972 (that governed the regular municipal elections held in 1976) provided for a two-year term of office commencing on the 1st day of January, 1977. Members elected in that year would accordingly hold office until the 31st day of December, 1978.

The proposed new subsection 2 of section 9 is designed to make it clear that members of councils and local boards whose term of office would normally expire on December 31st, 1978, will now leave office on the last day of November, 1978. Provision is also made for a proportionate reduction in the annual allowance of members whose remuneration is paid on that basis. Subsection 3 of section 9 as proposed is unchanged from the present subsection 2.

SECTION 2. The clause proposed to be re-enacted prescribes who may sign the nomination papers of a candidate. It now reads as follows:

(a) *shall be signed by at least ten electors whose names are entered, or entitled to be entered under section 33, in the polling lists of electors entitled to vote in an election to such office.*

The re-enactment would change the reference to "polling list" to "preliminary list", as the polling list may not have been prepared by the time nomination papers may be filed and provides for the taking of an affidavit in the case of those electors whose names are not on the preliminary list but are otherwise entitled to vote.

SECTION 3. Subsection 5 of section 37 of the Act now reads as follows:

(5) *Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which the candidates may be elected, on the Wednesday following nomination day the clerk may, between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon, receive and certify additional nominations for the office in respect of which there was an insufficient number of candidates.*

The proposed re-enactment is designed to express more clearly the procedure that is to be followed where, at the end of nomination day, fewer candidates have been nominated than the number of vacancies to be filled. Those candidates that have been nominated are to be declared elected by the clerk in the usual way on the Tuesday following nomination day (under s. 40 (1)). On the Wednesday, additional nominations may be filed for the vacancies still to be filled, and if they are, the clerk is to follow the same procedure *mutatis mutandis* as with nominations filed on nomination day. If the additional nominations filed are not greater than the vacancies still to be filled, the clerk on the Thursday is to declare those candidates elected (under s. 40 (1a)).

BILL 30

1978

**An Act to amend
The Municipal Elections Act, 1977**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 9 of *The Municipal Elections Act, 1977*,
being chapter 62, is repealed and the following substituted therefor: s. 9 (2),
re-enacted

(2) The term of office of members of a council or local board who hold office on the 30th day of November, 1978, and whose term of office but for this subsection would expire with the 31st day of December, 1978, shall, subject to subsection 3, expire with the 30th day of November, 1978, and where such members are paid an annual allowance, the allowance for the year 1978 shall be reduced proportionately. Expiry of
term of
office and
proportional
reduction
in annual
allowances

(3) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized. Until new
council
organized

2. Clause *a* of subsection 1 of section 36 of the said Act is repealed and the following substituted therefor: s. 36 (1) (a),
re-enacted

(a) shall be signed by at least ten electors, either whose names are entered in the preliminary list of electors or who have furnished to the clerk an affidavit in the prescribed form that they are entitled to vote in the election to such office.

3. Subsection 5 of section 37 of the said Act is repealed and the following substituted therefor: s. 37 (5),
re-enacted

(5) Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which candidates may Where
number of
candidates
nominated
insufficient

be elected, subsection 1 of section 40 respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon and the provisions of subsection 4 apply, with the necessary modifications, as though the additional nomination papers had been filed on nomination day.

s. 40 (1),
re-enacted

4. Subsection 1 of section 40 of the said Act is repealed and the following substituted therefor:

Acclama-
tion

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall forthwith after 5 o'clock in the afternoon of the day following nomination day declare that candidate or those candidates duly elected.

Idem

(1a) In the case where additional nominations have been filed under subsection 5 of section 37 and the additional number of candidates nominated is not more than the remaining number of vacancies for which the additional candidates were nominated, the clerk shall forthwith after 5 o'clock in the afternoon of the Thursday following nomination day, declare that candidate or those candidates duly elected.

s. 55 (1),
par. 4,
re-enacted

5. Paragraph 4 of subsection 1 of section 55 of the said Act is repealed and the following substituted therefor:

4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the

words "*Objected to by*
(name of candidate on whose behalf the objection was made)" and the deputy returning officer shall require the person in respect of whom the objection was made to take the prescribed oath.

s. 92 (5),
re-enacted

6. Subsection 5 of section 92 of the said Act is repealed and the following substituted therefor:

Idem
R.S.O. 1970,
c. 32

(5) Where in the year following an election year the annual enumeration under *The Assessment Act* has, not less than sixty days prior to the holding of the new election, been

SECTION 4. The amendments proposed are complementary to those in section 3 of the Bill.

SECTION 5. The paragraph as it now reads provides that the name of the objecting candidate be indicated on the prescribed oath. To do so is not feasible as the oath is orally administered. As re-enacted the name of the objecting candidate will be shown on the polling list opposite the name of the person to whom objection is taken.

SECTION 6. Section 92 of the Act provides for the procedure to be followed when a new (as opposed to a "regular") election is required to be held. In most instances, the polling list prepared for the last regular election is to be used as the preliminary list for the new election and is subject to revision in the usual way, subject to the application of certain rules respecting the extension of the qualification period for electors. The procedure respecting the revision of the list is set out in subsection 4 of section 92. Subsection 5 of section 92 sets out the procedure where, before the date of the new election, the annual enumeration under *The Assessment Act* has been completed. In that case, a new preliminary list based on that enumeration is to be used as the preliminary list for the new election. The re-enactment of subsection 5 is designed to make it clear that the rules (with necessary modification) respecting the extension of the qualification period apply with respect to the revision of that list. Subsection 4 of section 92 as it now reads and subsection 5 as it will read as re-enacted and showing underlined the words being added are set out below:

(4) *Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply mutatis mutandis to the printing or reproduction of the list and to the revision of the list, subject to the following rules:*

- 1. Where a new election is required under clause a of section 38 or subsection 3 of section 40, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period of following such qualification period terminating on the Thursday following the polling day for the last regular election.*
- 2. Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 111.*
- 3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the directive, by-law or notice specified in clause a, b or c of subsection 1.*

4. *Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of The Municipal Act.*

(5) *Where in the year following an election year the annual enumeration under The Assessment Act has, not less than sixty days prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection 4, as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 23 of The Assessment Act.*

SECTION 7. The amendment is intended to make it clear that in the application of the relevant rule under section 92 governing the qualification period for electors entitled to vote on a question submitted under *The Liquor Licence Act, 1975*, the date of the approval of the Liquor Licence Board to the fixing of the date for taking the vote is to stand in the place of the date of the order of the Municipal Board fixing the date for the taking of the vote on a by-law or any other question that may be submitted to the electors.

completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection 4, as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 23 of *The Assessment Act*.

R.S.O. 1970,
c. 32

7. Subsection 2 of section 32 of *The Liquor Licence Act, 1975*, being chapter 40, as re-enacted by the Statutes of Ontario, 1977, chapter 62, section 124, is repealed and the following substituted therefor:

1975, c. 40,
s. 32 (2),
re-enacted

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, for the purpose of determining the period during which a person may qualify as an elector entitled to vote on the question, the reference in paragraph 4 of subsection 4 of section 92 of *The Municipal Elections Act, 1977*, to the order of the Ontario Municipal Board given under section 262 of *The Municipal Act* shall be deemed to be a reference to the date of the approval given by the Board as required by section 31 of this Act.

Qualifica-
tion period
for
determining
eligibility
of electors

1977, c. 62

R.S.O. 1970,
c. 284

8. This Act comes into force on the day it receives Royal Assent.
9. The short title of this Act is *The Municipal Elections Amendment Act, 1978*.

Commence-
ment

Short title

An Act to amend
The Municipal Elections Act, 1977

1st Reading

March 9th, 1978

2nd Reading

3rd Reading

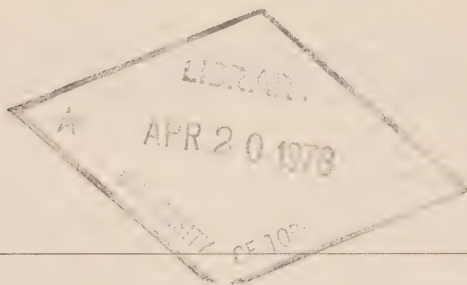
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislation

**An Act to amend
The Municipal Elections Act, 1977**



THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Section 9 of the Act now reads as follows:

- 9.—(1) *Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year.*
- (2) *The holders of offices hold office until their successors are elected and the newly elected council or local board is organized.*

The Municipal Elections Act, 1972 (that governed the regular municipal elections held in 1976) provided for a two-year term of office commencing on the 1st day of January, 1977. Members elected in that year would accordingly hold office until the 31st day of December, 1978.

The proposed new subsection 2 of section 9 is designed to make it clear that members of councils and local boards whose term of office would normally expire on December 31st, 1978, will now leave office on the last day of November, 1978. Provision is also made for a proportionate reduction in the annual allowance of members whose remuneration is paid on that basis. Subsection 3 of section 9 as proposed is unchanged from the present subsection 2.

SECTION 2. The clause proposed to be re-enacted prescribes who may sign the nomination papers of a candidate. It now reads as follows:

- (a) *shall be signed by at least ten electors whose names are entered, or entitled to be entered under section 33, in the polling lists of electors entitled to vote in an election to such office.*

The re-enactment would change the reference to “polling list” to “preliminary list”, as the polling list may not have been prepared by the time nomination papers may be filed and provides for the taking of an affidavit in the case of those electors whose names are not on the preliminary list but are otherwise entitled to vote.

SECTION 3. Subsection 5 of section 37 of the Act now reads as follows:

- (5) *Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which the candidates may be elected, on the Wednesday following nomination day the clerk may, between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon, receive and certify additional nominations for the office in respect of which there was an insufficient number of candidates.*

The proposed re-enactment is designed to express more clearly the procedure that is to be followed where, at the end of nomination day, fewer candidates have been nominated than the number of vacancies to be filled. Those candidates that have been nominated are to be declared elected by the clerk in the usual way on the Tuesday following nomination day (under s. 40 (1)). On the Wednesday, additional nominations may be filed for the vacancies still to be filled, and if they are, the clerk is to follow the same procedure *mutatis mutandis* as with nominations filed on nomination day. If the additional nominations filed are not greater than the vacancies still to be filled, the clerk on the Thursday is to declare those candidates elected (under s. 40 (1a)).

BILL 30

1978

An Act to amend The Municipal Elections Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 9 of *The Municipal Elections Act, 1977*,^{s. 9 (2), re-enacted} being chapter 62, is repealed and the following substituted therefor:

(2) The term of office of members of a council or local board who hold office on the 30th day of November, 1978, and whose term of office but for this subsection would expire with the 31st day of December, 1978, shall, subject to subsection 3, expire with the 30th day of November, 1978, and where such members are paid an annual allowance, the allowance for the year 1978 shall be reduced proportionately.^{Expiry of term of office and proportional reduction in annual allowances}

(3) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized.^{Until new council organized}

2. Clause *a* of subsection 1 of section 36 of the said Act is^{s. 36 (1) (a), re-enacted} repealed and the following substituted therefor:

(a) shall be signed by at least ten electors, either whose names are entered in the preliminary list of electors or who have furnished to the clerk an affidavit in the prescribed form that they are entitled to vote in the election to such office.

3. Subsection 5 of section 37 of the said Act is repealed and the following substituted therefor:^{s. 37 (5), re-enacted}

(5) Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which candidates may^{Where number of candidates nominated insufficient}

be elected, subsection 1 of section 40 respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon and the provisions of subsection 4 apply, with the necessary modifications, as though the additional nomination papers had been filed on nomination day.

s. 40 (1),
re-enacted

4. Subsection 1 of section 40 of the said Act is repealed and the following substituted therefor:

Acclama-
tion

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall forthwith after 5 o'clock in the afternoon of the day following nomination day declare that candidate or those candidates duly elected.

Idem

(1a) In the case where additional nominations have been filed under subsection 5 of section 37 and the additional number of candidates nominated is not more than the remaining number of vacancies for which the additional candidates were nominated, the clerk shall forthwith after 5 o'clock in the afternoon of the Thursday following nomination day, declare that candidate or those candidates duly elected.

s. 55 (1),
par. 4,
re-enacted

5. Paragraph 4 of subsection 1 of section 55 of the said Act is repealed and the following substituted therefor:

4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the

words "*Objected to by*
(name of candidate on whose behalf the objection was made)" and the deputy returning officer shall require the person in respect of whom the objection was made to take the prescribed oath.

s. 92 (5),
re-enacted

6. Subsection 5 of section 92 of the said Act is repealed and the following substituted therefor:

Idem
R.S.O. 1970,
c. 32

(5) Where in the year following an election year the annual enumeration under *The Assessment Act* has, not less than sixty days prior to the holding of the new election, been

SECTION 4. The amendments proposed are complementary to those in section 3 of the Bill.

SECTION 5. The paragraph as it now reads provides that the name of the objecting candidate be indicated on the prescribed oath. To do so is not feasible as the oath is orally administered. As re-enacted the name of the objecting candidate will be shown on the polling list opposite the name of the person to whom objection is taken.

SECTION 6. Section 92 of the Act provides for the procedure to be followed when a new (as opposed to a "regular") election is required to be held. In most instances, the polling list prepared for the last regular election is to be used as the preliminary list for the new election and is subject to revision in the usual way, subject to the application of certain rules respecting the extension of the qualification period for electors. The procedure respecting the revision of the list is set out in subsection 4 of section 92. Subsection 5 of section 92 sets out the procedure where, before the date of the new election, the annual enumeration under *The Assessment Act* has been completed. In that case, a new preliminary list based on that enumeration is to be used as the preliminary list for the new election. The re-enactment of subsection 5 is designed to make it clear that the rules (with necessary modification) respecting the extension of the qualification period apply with respect to the revision of that list. Subsection 4 of section 92 as it now reads and subsection 5 as it will read as re-enacted and showing underlined the words being added are set out below:

(4) *Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply mutatis mutandis to the printing or reproduction of the list and to the revision of the list, subject to the following rules:*

1. *Where a new election is required under clause a of section 38 or subsection 3 of section 40, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period of following such qualification period terminating on the Thursday following the polling day for the last regular election.*
2. *Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 111.*
3. *Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the directive, by-law or notice specified in clause a, b or c of subsection 1.*

4. *Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of The Municipal Act.*

(5) *Where in the year following an election year the annual enumeration under The Assessment Act has, not less than sixty days prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection 4, as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 23 of The Assessment Act.*

SECTION 8. The amendment is intended to make it clear that in the application of the relevant rule under section 92 governing the qualification period for electors entitled to vote on a question submitted under *The Liquor Licence Act, 1975*, the date of the approval of the Liquor Licence Board to the fixing of the date for taking the vote is to stand in the place of the date of the order of the Municipal Board fixing the date for the taking of the vote on a by-law or any other question that may be submitted to the electors.

completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection 4, as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 23 of *The Assessment Act*.

R.S.O. 1970,
c. 32

7. Subsection 3 of section 117 of the said Act is amended by striking out "104" in the third line and inserting in lieu thereof "106".

s. 117 (3),
amended

8. Subsection 2 of section 32 of *The Liquor Licence Act, 1975*, being chapter 40, as re-enacted by the Statutes of Ontario, 1977, chapter 62, section 124, is repealed and the following substituted therefor:

1975, c. 40,
s. 32 (2),
re-enacted

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, for the purpose of determining the period during which a person may qualify as an elector entitled to vote on the question, the reference in paragraph 4 of subsection 4 of section 92 of *The Municipal Elections Act, 1977*, to the order of the Ontario Municipal Board given under section 262 of *The Municipal Act* shall be deemed to be a reference to the date of the approval given by the Board as required by section 31 of this Act.

Qualifica-
tion period
for
determining
eligibility
of electors

1977, c. 62

R.S.O. 1970,
c. 284

9. This Act comes into force on the day it receives Royal Assent.
10. The short title of this Act is *The Municipal Elections Amendment Act, 1978*.

Commence-
ment

Short title

An Act to amend
The Municipal Elections Act, 1977

1st Reading

March 9th, 1978

2nd Reading

March 28th, 1978

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

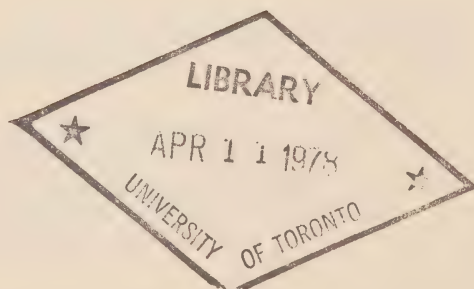
*(Reprinted as amended by the
Committee of the Whole House)*

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to amend
The Municipal Elections Act, 1977**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 30

1978

An Act to amend The Municipal Elections Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 9 of *The Municipal Elections Act, 1977*, s. 9 (2), re-enacted being chapter 62, is repealed and the following substituted therefor:

(2) The term of office of members of a council or local board who hold office on the 30th day of November, 1978, and whose term of office but for this subsection would expire with the 31st day of December, 1978, shall, subject to subsection 3, expire with the 30th day of November, 1978, and where such members are paid an annual allowance, the allowance for the year 1978 shall be reduced proportionately. Expiry of term of office and proportional reduction in annual allowances

(3) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized. Until new council organized

2. Clause *a* of subsection 1 of section 36 of the said Act is s. 36 (1) (a), re-enacted repealed and the following substituted therefor:

(a) shall be signed by at least ten electors, either whose names are entered in the preliminary list of electors or who have furnished to the clerk an affidavit in the prescribed form that they are entitled to vote in the election to such office.

3. Subsection 5 of section 37 of the said Act is s. 37 (5), re-enacted repealed and the following substituted therefor:

(5) Where the number of candidates for an office who are nominated at the end of nomination day is not sufficient to fill the number of vacancies to which candidates may Where number of candidates nominated insufficient

be elected, subsection 1 of section 40 respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9.00 o'clock in the forenoon and 5.00 o'clock in the afternoon and the provisions of subsection 4 apply, with the necessary modifications, as though the additional nomination papers had been filed on nomination day.

s. 40 (1).
re-enacted

4. Subsection 1 of section 40 of the said Act is repealed and the following substituted therefor:

Acclama-
tion

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall forthwith after 5 o'clock in the afternoon of the day following nomination day declare that candidate or those candidates duly elected.

Idem

(1a) In the case where additional nominations have been filed under subsection 5 of section 37 and the additional number of candidates nominated is not more than the remaining number of vacancies for which the additional candidates were nominated, the clerk shall forthwith after 5 o'clock in the afternoon of the Thursday following nomination day, declare that candidate or those candidates duly elected.

s. 55 (1).
par. 4.
re-enacted

5. Paragraph 4 of subsection 1 of section 55 of the said Act is repealed and the following substituted therefor:

4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the

words "*Objected to by*
(name of candidate on whose behalf the objection was made)" and the deputy returning officer shall require the person in respect of whom the objection was made to take the prescribed oath.

s. 92 (5).
re-enacted

6. Subsection 5 of section 92 of the said Act is repealed and the following substituted therefor:

Idem
R.S.O. 1970.
c. 32

(5) Where in the year following an election year the annual enumeration under *The Assessment Act* has, not less than sixty days prior to the holding of the new election, been

completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection 4, as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 23 of *The Assessment Act*.

R.S.O. 1970,
c. 32

7. Subsection 3 of section 117 of the said Act is amended by striking out "104" in the third line and inserting in lieu thereof "106". s. 117 (3),
amended
8. Subsection 2 of section 32 of *The Liquor Licence Act, 1975*, 1975, c. 40,
s. 32 (2),
re-enacted being chapter 40, as re-enacted by the Statutes of Ontario, 1977, chapter 62, section 124, is repealed and the following substituted therefor:

(2) Where the vote is held on a day other than the date set for the election of members to the council of the municipality, for the purpose of determining the period during which a person may qualify as an elector entitled to vote on the question, the reference in paragraph 4 of subsection 4 of section 92 of *The Municipal Elections Act, 1977*, to the order of the Ontario Municipal Board given under section 262 of *The Municipal Act* shall be deemed to be a reference to the date of the approval given by the Board as required by section 31 of this Act. Qualifica-
tion period
for
determining
eligibility
of electors

1977, c. 62

R.S.O. 1970,
c. 284

9. This Act comes into force on the day it receives Royal Assent. Commence-
ment
10. The short title of this Act is *The Municipal Elections Amendment Act, 1978*. Short title

An Act to amend
The Municipal Elections Act, 1977

1st Reading

March 9th, 1978

2nd Reading

March 28th, 1978

3rd Reading

March 30th, 1978

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

BILL 31

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to amend
The Ministry of Government Services Act, 1973**



THE HON. L. HENDERSON
Minister of Government Services

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

Sections 6, 10 and 13 of the Act are revised to clarify the authority of the staff of the Ministry in carrying out the responsibilities of the Ministry.

BILL 31

1978

**An Act to amend
The Ministry of Government Services Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1 and 2 of section 6 of *The Ministry of Government Services Act, 1973*, being chapter 2, as amended by the Statutes of Ontario, 1974, chapter 36, section 3, are repealed and the following substituted therefor:

(1) It is the responsibility of the Minister and he has power, in accordance with section 8, to acquire, lease and dispose of public works. Responsi-
bility of
Minister

(2) It is the responsibility of the Ministry, and the officers, clerks and servants of the Ministry have power, under the direction of the Minister and the Deputy Minister, Responsi-
bility of
Ministry

(a) to design, construct, renovate, service, maintain, repair, furnish, equip, manage and administer premises, buildings and structures that are public works;

(b) to determine the public works or parts thereof that are open to the public and to manage and administer such public works or parts including,

(i) regulating vehicular and pedestrian traffic,

(ii) setting apart any building, premises or structure that is a public work, or any part thereof, for a limited use, and

(iii) collecting fees fixed by the Minister for parking in any area set aside for parking in, on or under any public work, and the Minister may fix such fees;

- (c) to develop and manage common services for increasing the effectiveness, efficiency and economy of ministries and agencies of the Government;
- (d) to establish specifications and standards concerning the acquisition of commodities, furnishings and equipment by the Government, the cataloguing of commodities, furnishings and equipment and the maintenance, storage and disposal of commodities, furnishings and equipment;
- (e) to acquire by purchase, lease or otherwise, commodities, furnishings, equipment and services required by the Government, to store all or any of such commodities, furnishings and equipment and to dispose of all or any of such commodities, furnishings and equipment; and
- (f) to provide such other services as the Lieutenant Governor in Council assigns.

s. 10,
amended

- 2.** Section 10 of the said Act is amended by adding thereto the following subsection:

Idem

(2) The officers, clerks and servants of the Ministry under the direction of the Minister and the Deputy Minister may enter into contracts or agreements for and in the name of the Crown to carry out the responsibilities of the Ministry under this Act.

s. 13,
re-enacted

- 3.** Section 13 of the said Act is repealed and the following substituted therefor:

Tenders

13. Before a contract is entered into for and in the name of the Crown in respect of the construction, renovation or repair of a public work, the Ministry shall invite tenders therefor except,

- (a) in cases of emergency where in the opinion of the Minister delay would be damaging; or
- (b) where the estimated cost of the work is less than \$10,000,

and the Minister shall report all cases referred to in clause *a* to the Legislature forthwith, if it is in session or, if not, at the next ensuing session.

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is *The Ministry of Government* Short title
Services Amendment Act, 1978.

An Act to amend
The Ministry of Government
Services Act, 1973

1st Reading

March 9th, 1978

2nd Reading

3rd Reading

THE HON. I. HENDERSON
Minister of Government Services

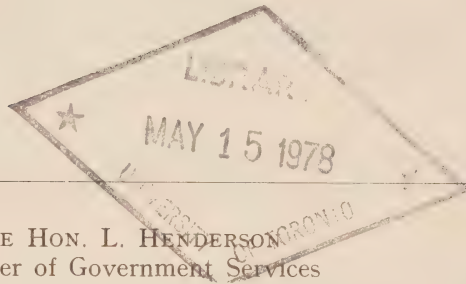
(Government Bill)

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BILL 31

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to amend
The Ministry of Government Services Act, 1973**



THE HON. L. HENDERSON
Minister of Government Services

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 31

1978

An Act to amend The Ministry of Government Services Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1 and 2 of section 6 of *The Ministry of Government Services Act, 1973*, being chapter 2, as amended by the Statutes of Ontario, 1974, chapter 36, section 3, are repealed and the following substituted therefor:

s. 6 (1, 2),
re-enacted

(1) It is the responsibility of the Minister and he has power, in accordance with section 8, to acquire, lease and dispose of public works.

Responsi-
bility of
Minister

(2) It is the responsibility of the Ministry, and the officers, clerks and servants of the Ministry have power, under the direction of the Minister and the Deputy Minister,

Responsi-
bility of
Ministry

(a) to design, construct, renovate, service, maintain, repair, furnish, equip, manage and administer premises, buildings and structures that are public works;

(b) to determine the public works or parts thereof that are open to the public and to manage and administer such public works or parts including,

- (i) regulating vehicular and pedestrian traffic,
- (ii) setting apart any building, premises or structure that is a public work, or any part thereof, for a limited use, and
- (iii) collecting fees fixed by the Minister for parking in any area set aside for parking in, on or under any public work, and the Minister may fix such fees;

- (c) to develop and manage common services for increasing the effectiveness, efficiency and economy of ministries and agencies of the Government;
- (d) to establish specifications and standards concerning the acquisition of commodities, furnishings and equipment by the Government, the cataloguing of commodities, furnishings and equipment and the maintenance, storage and disposal of commodities, furnishings and equipment;
- (e) to acquire by purchase, lease or otherwise, commodities, furnishings, equipment and services required by the Government, to store all or any of such commodities, furnishings and equipment and to dispose of all or any of such commodities, furnishings and equipment; and
- (f) to provide such other services as the Lieutenant Governor in Council assigns.

s. 10,
amended

- 2.** Section 10 of the said Act is amended by adding thereto the following subsection:

Idem

(2) The officers, clerks and servants of the Ministry under the direction of the Minister and the Deputy Minister may enter into contracts or agreements for and in the name of the Crown to carry out the responsibilities of the Ministry under this Act.

s. 13,
re-enacted

- 3.** Section 13 of the said Act is repealed and the following substituted therefor:

Tenders

13. Before a contract is entered into for and in the name of the Crown in respect of the construction, renovation or repair of a public work, the Ministry shall invite tenders therefor except,

- (a) in cases of emergency where in the opinion of the Minister delay would be damaging; or
- (b) where the estimated cost of the work is less than \$10,000,

and the Minister shall report all cases referred to in clause *a* to the Legislature forthwith, if it is in session or, if not, at the next ensuing session.

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is *The Ministry of Government Services Amendment Act, 1978*. Short title

An Act to amend
The Ministry of Government
Services Act, 1973

1st Reading

March 9th, 1978

2nd Reading

April 18th, 1978

3rd Reading

May 2nd, 1978

THE HON. L. HENDERSON
Minister of Government Services

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislation

An Act to amend The Health Insurance Act, 1972



MR. WARNER

EXPLANATORY NOTE

The Bill repeals provisions of *The Health Insurance Act, 1972* that authorize the Lieutenant Governor in Council to establish the cost of premiums by regulation.

BILL 32

1978

**An Act to amend
The Health Insurance Act, 1972**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of *The Health Insurance Act, 1972*, being chapter 91, s. 12,
repealed is repealed.
2. Clause *h* of subsection 1 of section 51 of the said Act is repealed. s. 51 (1) (h),
repealed
3. Notwithstanding sections 1 and 2, the premiums for insured services in force on the day preceding the day this Act comes into force shall continue to apply until such premiums are altered by statute. Premium
rates
continued
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is *The Health Insurance Amendment Act, 1978*. Short title

An Act to amend
The Health Insurance Act, 1972

1st Reading

March 13th, 1978

2nd Reading

3rd Reading

MR. WARNER

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Land Titles Act



THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

The amendments are complementary to the Family Law Reform Bills and are designed to recognize changes in the law relating to family relationships.

SECTION 1. The amendment adds an interest to which registered land is subject.

SECTION 2. The provision being repealed deals with "ownership to uses". This legal device should have no further application.

SECTION 3. The provision being repealed refers to instances where the wife of a registered owner of land is not entitled to dower. This provision will now be redundant.

BILL 33

1978

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 51 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 132, section 13, is further amended by adding thereto the following paragraph:

4a. Any right under Part III of *The Family Law Reform Act, 1978*, of the spouse of the person registered as owner. s. 51 (1),
amended
2. Subsections 8 and 9 of section 96 of the said Act are repealed. s. 96 (8, 9),
repealed
3. Section 132 of the said Act is repealed. s. 132,
repealed
4. This Act comes into force on the 31st day of March, 1978. Commence-
ment
5. The short title of this Act is *The Land Titles Amendment Act, 1978*. Short title

BILL 33

An Act to amend
The Land Titles Act

1st Reading

March 16th, 1978

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

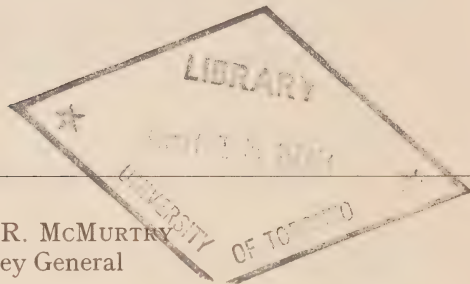
36 BILL 33

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act to amend The Land Titles Act

THE HON. R. McMURTRY
Attorney General



BILL 33

1978

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 51 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 132, section 13, is further amended by adding thereto the following paragraph:

4a. Any right under Part III of *The Family Law Reform Act, 1978*, of the spouse of the person registered as owner. s. 51 (1),
amended 1978, c.
2. Subsections 8 and 9 of section 96 of the said Act are repealed. s. 96 (8, 9),
repealed
3. Section 132 of the said Act is repealed. s. 132,
repealed
4. This Act comes into force on the 31st day of March, 1978. Commence-
ment
5. The short title of this Act is *The Land Titles Amendment Act, 1978*. Short title

An Act to amend
The Land Titles Act

1st Reading

March 16th, 1978

2nd Reading

March 28th, 1978

3rd Reading

March 28th, 1978

THE HON. R. McMURTRY
Attorney General

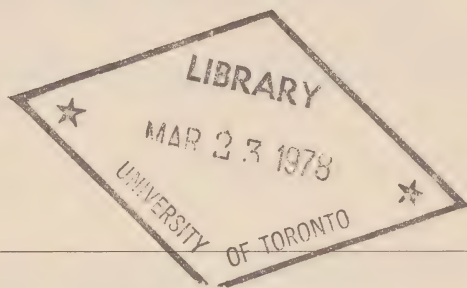
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Government
Publications

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act to amend The Registry Act



THE HON. R. MCMURTRY
Attorney General

EXPLANATORY NOTES

The amendments are complementary to the Family Law Reform Bills and are designed to recognize changes in the law relating to family relationships in so far as these changes affect documents registered in the Registry Office.

SECTION 1. "Will" has been redefined.

SECTION 2. Section 42 of the Act deals with the affidavits to be executed when documents are registered in the Registry Office. The concept of "spouse", as defined in *The Family Law Reform Act, 1978* (Bill 59), has been substituted for that of a wife and a married man.

BILL 34

1978

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *o* of section 1 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (o),
re-enacted

(o) "will" means a will as defined in *The Succession Law Reform Act*, 1977. 1977, c. 40

- 2.—(1) Section 42 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4 and 1972, chapter 133, section 16, is further amended by adding thereto the following subsection: s. 42,
amended

(4a) For the purposes of subsections 5 and 6, "spouse" means "spouse" as defined in clause *f* of section 1 of *The Family Law Reform Act*, 1978. Interpre-
tation
1978, c. ...

- (2) Subsections 5 and 6 of the said section 42 are repealed and the following substituted therefor: s. 42 (5, 6),
re-enacted

(5) A deed, conveyance, mortgage, lease, assignment of lease, release, or quit claim that is made by a person, other than a corporation, in which no one joins as a spouse, shall not be registered unless there is made on or securely attached to it an affidavit by that person, or if the document is executed by an attorney, by that attorney, deposing whether the person was a spouse at the time of the execution of the instrument. Affidavit as
to spousal
status

(6) A deed, conveyance, mortgage, lease, assignment of lease, release, or quit claim that is made by a person and in which another person joins as a spouse shall not be registered unless there is made on or securely attached to it an affidavit by such person, or his or her spouse, or, if the Affidavit
by spouses

document is executed by an attorney, by that attorney, deposing that they were spouses of one another at the time of execution of the instrument.

s. 42 (9),
amended

- (3) Subsection 9 of the said section 42 is amended by adding thereto the following clause:

(aa) to a spouse who, not as an owner and party, consents to or joins in an instrument for the purposes of section 42 of *The Family Law Reform Act, 1978*.

1978, c. . . .

s. 42 (10),
re-enacted

- (4) Subsection 10 of the said section 42, as amended by the Statutes of Ontario, 1972, chapter 133, section 16, is repealed and the following substituted therefor:

When
subss. 5, 6
do not apply

(10) Subsections 5 and 6 do not apply to a person executing an instrument in his capacity as Public Trustee, Official Guardian, trustee in bankruptcy, executor or administrator who is not selling for the purpose of paying debts of the estate, committee of a mentally incompetent person, sheriff, trustee of a religious institution or trustee of a school board and any other person who may be designated by regulation.

s. 102 (1),
amended

3. Subsection 1 of section 102 of the said Act is amended by adding thereto the following clause:

(qa) designating persons for the purposes of subsection 10 of section 42.

Commence-
ment

4. This Act comes into force on the 31st day of March, 1978.

Short title

5. The short title of this Act is *The Registry Amendment Act, 1978*.

SECTION 3. Complementary to the re-enactment of section 42 (10).

BILL 34

An Act to amend
The Registry Act

1st Reading

March 16th, 1978

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

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- B56

322 BILL 34

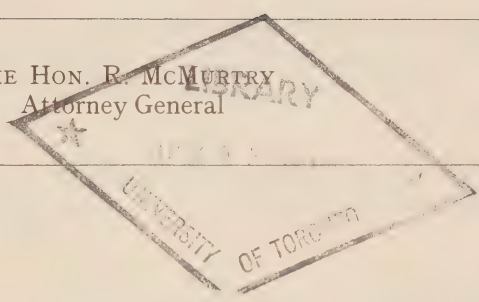
Government
Publications

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly
58

An Act to amend The Registry Act

THE HON. R. McMURTRY
Attorney General



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 34

1978

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *o* of section 1 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (o),
re-enacted

(o) "will" means a will as defined in *The Succession Law Reform Act, 1977*. 1977, c. 40

- 2.—(1) Section 42 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, section 4 and 1972, chapter 133, section 16, is further amended by adding thereto the following subsection: s. 42,
amended

(4a) For the purposes of subsections 5 and 6, "spouse" means "spouse" as defined in clause *f* of section 1 of *The Family Law Reform Act, 1978*. Interpre-
tation
1978, c. ...

- (2) Subsections 5 and 6 of the said section 42 are repealed and the following substituted therefor: s. 42 (5, 6),
re-enacted

(5) A deed, conveyance, mortgage, lease, assignment of lease, release, or quit claim that is made by a person, other than a corporation, in which no one joins as a spouse, shall not be registered unless there is made on or securely attached to it an affidavit by that person, or if the document is executed by an attorney, by that attorney, deposing whether the person was a spouse at the time of the execution of the instrument. Affidavit as
to spousal
status

(6) A deed, conveyance, mortgage, lease, assignment of lease, release, or quit claim that is made by a person and in which another person joins as a spouse shall not be registered unless there is made on or securely attached to it an affidavit by such person, or his or her spouse, or, if the Affidavit
by spouses

document is executed by an attorney, by that attorney, deposing that they were spouses of one another at the time of execution of the instrument.

s. 42 (9),
amended

- (3) Subsection 9 of the said section 42 is amended by adding thereto the following clause:

(aa) to a spouse who, not as an owner and party, consents to or joins in an instrument for the purposes of section 42 of *The Family Law Reform Act, 1978*.

1978, c. ...

s. 42 (10),
re-enacted

- (4) Subsection 10 of the said section 42, as amended by the Statutes of Ontario, 1972, chapter 133, section 16, is repealed and the following substituted therefor:

When
subss. 5, 6
do not apply

(10) Subsections 5 and 6 do not apply to a person executing an instrument in his capacity as Public Trustee, Official Guardian, trustee in bankruptcy, executor or administrator who is not selling for the purpose of paying debts of the estate, committee of a mentally incompetent person, sheriff, trustee of a religious institution or trustee of a school board and any other person who may be designated by regulation.

s. 102 (1),
amended

3. Subsection 1 of section 102 of the said Act is amended by adding thereto the following clause:

(qa) designating persons for the purposes of subsection 10 of section 42.

Commence-
ment

4. This Act comes into force on the 31st day of March, 1978.

Short title

5. The short title of this Act is *The Registry Amendment Act, 1978*.

An Act to amend
The Registry Act

1st Reading

March 16th, 1978

2nd Reading

March 28th, 1978

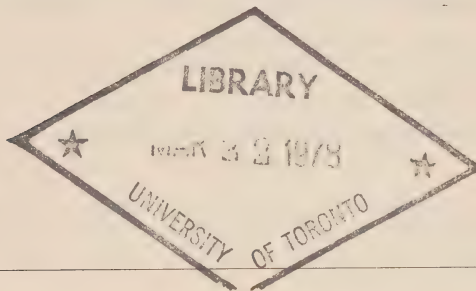
3rd Reading

March 28th, 1978

THE HON. R. MCMURTRY
Attorney General

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Crown Timber Act



THE HON. F. S. MILLER
Minister of Natural Resources

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Subsection 2 of section 6 of the Act now reads as follows:

- (2) *Every licensee shall pay annually a forest protection charge and a management charge in respect of the productive lands comprised in the licensed area.*

The amendment reduces the two charges to one charge to be known as an area charge.

SECTION 2.—Subsection 1. Clause *i* of subsection 1 of section 46 of the Act now reads as follows:

46.—(1) *Every person who,*

.

- (i) *makes or avails himself of any false statement or oath with respect to any matter under this Act, is liable to a penalty of not less than \$100 and not more than \$500.*

The amendment extends the liability to a penalty to any matter under the regulations.

Subsection 2. Subsection 2 of the said section 46, exclusive of the clauses, now reads as follows:

- (2) *Where in the opinion of the Minister a person is liable to a penalty under subsection 1, he may give notice to the person by registered mail,*

.

The operation of the subsection is extended to penalties under the regulations.

Subsection 3. Clause *a* of subsection 3 of the said section 46 now reads as follows:

- (a) *to determine whether such person is liable to a penalty under subsection 1; and*

.

The re-enactment of the clause is complementary to subsection 2.

BILL 35

1978

An Act to amend The Crown Timber Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 6 of *The Crown Timber Act*, being ^{s. 6 (2),} chapter 102 of the Revised Statutes of Ontario, 1970, is ^{re-enacted} repealed and the following substituted therefor:

(2) Every licensee shall pay annually an area charge in ^{Area} respect of the productive lands comprised in the licensed ^{charge} area.

- 2.—(1) Clause *i* of subsection 1 of section 46 of the said Act is ^{s. 46 (1) (i),} repealed and the following substituted therefor: ^{re-enacted}

(i) makes or avails himself of any false statement or oath with respect to any matter under this Act or the regulations, is liable to a penalty or not less than \$100 and not more than \$500.

- (2) Subsection 2 of the said section 46, exclusive of the ^{s. 46 (2),} clauses, is repealed and the following substituted there- ^{amended} for:

(2) Where in the opinion of the Minister a person is liable ^{Demand for} to a penalty under subsection 1 or the regulations, he may ^{penalty} give notice to the person by registered mail,

.

- (3) Clause *a* of subsection 3 of the said section 46 is repealed ^{s. 46 (3) (a),} and the following substituted therefor: ^{re-enacted}

(a) to determine whether such person is liable to a penalty under subsection 1 or the regulations, and

.

s. 49.
re-enacted

3. Section 49 of the said Act is repealed and the following substituted therefor:

Regula-
tions re
Crown
charges

49. Notwithstanding anything in this Act or any general or special Act or in any order, regulation, agreement or licence, any regulation made under clause *c* or *d* of section 51 may be made to come into force on the 1st day of April immediately preceding its filing or on any day subsequent to that 1st day of April.

Determina-
tion of
Crown dues

49a. Unless otherwise provided in the regulations, the Crown dues to be paid in respect of timber by a licensee or class of licensee are those Crown dues fixed or determined under the regulations in force at the time the timber is measured, notwithstanding that the timber is cut before the regulations come into force.

s. 51 (*c*).
re-enacted

- 4.—(1) Clause *c* of section 51 of the said Act is repealed and the following substituted therefor:

(*c*) fixing the amount of area charge and other charges to be paid in respect of licensed areas.

s. 51 (*d, e*).
re-enacted

- (2) Clauses *d* and *e* of the said section 51 are repealed and the following substituted therefor:

(*d*) fixing or determining the Crown dues to be paid by a licensee or class of licensee in respect of any kind or class of timber, other than killed or damaged timber, cut under licence and, without limiting the generality of the foregoing, such regulations may provide for,

- (i) the fixing or determining of Crown dues by a formula employing any index number existing before or coming into existence after the regulations come into force, of any price index, or any average of any such index numbers,
- (ii) a method of categorizing any licensee or class of licensee in respect of the application of any such formula,
- (iii) any forfeiture or suspension considered necessary to administer effectively any such method,
- (iv) the filing of any certificate, affidavit and other material considered necessary for the purposes of any such method,

SECTION 3. Section 49 of the Act now reads as follows:

- 49.—(1) *Notwithstanding anything in this Act or any general or special Act or in any order in council or regulation or in any agreement or licence made or granted under any of them, the Lieutenant Governor in Council may make regulations increasing or decreasing the Crown dues payable in respect of any kind or class of timber or increasing or decreasing the annual forest protection charge or management charge payable in respect of licensed areas, and any such regulation shall be made to take effect on the 1st day of April immediately preceding or at such subsequent time as is specified in the regulation.*
- (2) *Where by the terms of a licence a price is fixed for any kind or class of timber and such price is stated to be inclusive of Crown dues or a price is fixed without reference to Crown dues, such price shall be deemed to be increased or decreased from time to time, as the case may be, by the amount whereby Crown dues are increased or decreased under subsection 1.*

The present subsection 1 is re-enacted to complement section 1 of the Bill and to clarify its application in respect of the effective date of regulations increasing or decreasing Crown dues and area charges.

Subsection 2 is repealed. It no longer applies to the manner in which prices are fixed in Crown timber licences.

The new section 49a provides that the time timber is measured is the material time in determining Crown dues to be paid.

SECTION 4.—Subsection 1. Clause *c* of section 51 of the Act now reads as follows:

51. *The Lieutenant Governor in Council may make regulations,*

- (c) fixing the amounts of forest protection charge, management charge and other charges to be paid in respect of licensed areas.*

The re-enactment of clause *c* is complementary to section 1 of the Bill.

Subsection 2. Clause *d* of the said section 51 now reads as follows:

- (d) fixing the Crown dues to be paid in respect of each species of timber, other than damaged timber, cut under licence.*

The re-enacted clause is expanded to provide for the fixing or determining of Crown dues by a formula employing index numbers of any price index published by Statistics Canada. Regulations may also be made to provide a method of categorizing licensees in respect of the application of any such formula.

Clause *e* of the said section 51 now reads as follows:

- (e) fixing the times at which Crown charges are payable and the rate of interest to be charged on overdue accounts.*

The clause is expanded to provide for compound interest and its calculation.

- (v) determining when a licensee shall be deemed to have failed or neglected to file any such certificate, affidavit or other material, and
- (vi) informing licensees of Crown dues determined by any formula;
- (e) fixing the times at which Crown charges are payable and the rate and kind of interest to be charged on overdue accounts and prescribing the method of calculating or compounding any such interest.

5.—(1) This Act, except section 1 and subsection 1 of section 4, ^{Commence-}comes into force on the day it receives Royal Assent.

(2) Section 1 and subsection 1 of section 4 come into force ^{Idem} on the 1st day of April, 1978.

6. The short title of this Act is *The Crown Timber Amendment* ^{Short title} Act, 1978.

Bill 35

An Act to amend
The Crown Timber Act

1st Reading

March 14th, 1978

2nd Reading

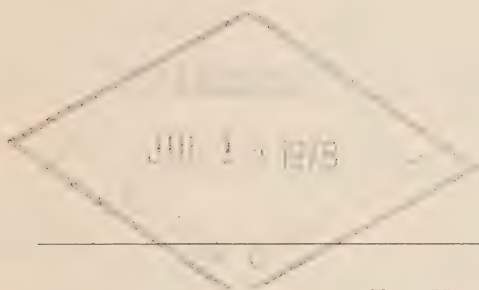
3rd Reading

THE HON. F. S. MILLER
Minister of Natural Resources

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Crown Timber Act



THE HON. F. S. MILLER
Minister of Natural Resources

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Subsection 2 of section 6 of the Act now reads as follows:

- (2) *Every licensee shall pay annually a forest protection charge and a management charge in respect of the productive lands comprised in the licensed area.*

The amendment reduces the two charges to one charge to be known as an area charge.



SECTION 2. The subsection is re-enacted to set out the matters that may be agreed upon in order to promote and maintain the productivity of a licensed area.



SECTION 3.—Subsection 1. Clause *i* of subsection 1 of section 46 of the Act now reads as follows:

46.—(1) *Every person who,*

.

- (i) *makes or avails himself of any false statement or oath with respect to any matter under this Act, is liable to a penalty of not less than \$100 and not more than \$500.*

The amendment extends the liability to a penalty to any matter under the regulations.

Subsection 2. Subsection 2 of the said section 46, exclusive of the clauses, now reads as follows:

- (2) *Where in the opinion of the Minister a person is liable to a penalty under subsection 1, he may give notice to the person by registered mail,*

.

The operation of the subsection is extended to penalties under the regulations.

BILL 35

1978

An Act to amend The Crown Timber Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 6 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 6 (2),
re-enacted

(2) Every licensee shall pay annually an area charge in respect of the productive lands comprised in the licensed area. Area
charge

2. Subsection 4 of section 25 of the said Act is repealed and the following substituted therefor: s. 25 (4),
re-enacted

(4) The Minister may enter into an agreement with a licensee for the promotion and maintenance of the productivity of the licensed area by establishing, regenerating and tending forests and employing silvicultural cutting systems to regenerate forests. Minister
may enter
into
agreements

- 3.—(1) Clause *i* of subsection 1 of section 46 of the said Act is repealed and the following substituted therefor: s. 46 (1) (i),
re-enacted

(i) makes or avails himself of any false statement or oath with respect to any matter under this Act or the regulations, is liable to a penalty of not less than \$100 and not more than \$500.

- (2) Subsection 2 of the said section 46, exclusive of the clauses, is repealed and the following substituted therefor: s. 46 (2),
amended

(2) Where in the opinion of the Minister a person is liable to a penalty under subsection 1 or the regulations, he may give notice to the person by registered mail, Demand for
penalty

s. 46 (3) (a),
re-enacted

- (3) Clause *a* of subsection 3 of the said section 46 is repealed and the following substituted therefor:

(a) to determine whether such person is liable to a penalty under subsection 1 or the regulations, and

.

s. 49,
re-enacted

4. Section 49 of the said Act is repealed and the following substituted therefor:

Regula-
tions re
Crown
charges

49. Notwithstanding anything in this Act or any general or special Act or in any order, regulation, agreement or licence, any regulation made under clause *c* or *d* of section 51 may be made to come into force on the 1st day of April immediately preceding its filing or on any day subsequent to that 1st day of April.

Determina-
tion of
Crown dues

49a. Unless otherwise provided in the regulations, the Crown dues to be paid in respect of timber by a licensee or class of licensee are those Crown dues fixed or determined under the regulations in force at the time the timber is measured, notwithstanding that the timber is cut before the regulations come into force.

s. 51 (c),
re-enacted

- 5.—(1) Clause *c* of section 51 of the said Act is repealed and the following substituted therefor:

(c) fixing the amount of area charge and other charges to be paid in respect of licensed areas.

s. 51 (d, e),
re-enacted

- (2) Clauses *d* and *e* of the said section 51 are repealed and the following substituted therefor:

(d) fixing or determining the Crown dues to be paid by a licensee or class of licensee in respect of any kind or class of timber, other than killed or damaged timber, cut under licence and, without limiting the generality of the foregoing, such regulations may provide for,

(i) the fixing or determining of Crown dues by a formula employing any index number existing before or coming into existence after the regulations come into force, of any price index, or any average of any such index numbers,

(ii) a method of categorizing any licensee or class of licensee in respect of the application of any such formula,

Subsection 3. Clause *a* of subsection 3 of the said section 46 now reads as follows:

- (a) *to determine whether such person is liable to a penalty under subsection 1; and*

The re-enactment of the clause is complementary to subsection 2.

SECTION 4. Section 49 of the Act now reads as follows:

49.—(1) *Notwithstanding anything in this Act or any general or special Act or in any order in council or regulation or in any agreement or licence made or granted under any of them, the Lieutenant Governor in Council may make regulations increasing or decreasing the Crown dues payable in respect of any kind or class of timber or increasing or decreasing the annual forest protection charge or management charge payable in respect of licensed areas, and any such regulation shall be made to take effect on the 1st day of April immediately preceding or at such subsequent time as is specified in the regulation.*

- (2) *Where by the terms of a licence a price is fixed for any kind or class of timber and such price is stated to be inclusive of Crown dues or a price is fixed without reference to Crown dues, such price shall be deemed to be increased or decreased from time to time, as the case may be, by the amount whereby Crown dues are increased or decreased under subsection 1.*

The present subsection 1 is re-enacted to complement section 1 of the Bill and to clarify its application in respect of the effective date of regulations increasing or decreasing Crown dues and area charges.

Subsection 2 is repealed. It no longer applies to the manner in which prices are fixed in Crown timber licences.

The new section 49a provides that the time timber is measured is the material time in determining Crown dues to be paid.

SECTION 5.—Subsection 1. Clause *c* of section 51 of the Act now reads as follows:

51. *The Lieutenant Governor in Council may make regulations,*

- (c) *fixing the amounts of forest protection charge, management charge and other charges to be paid in respect of licensed areas.*

The re-enactment of clause *c* is complementary to section 1 of the Bill.

Subsection 2. Clause *d* of the said section 51 now reads as follows:

- (d) *fixing the Crown dues to be paid in respect of each species of timber, other than damaged timber, cut under licence.*


The re-enacted clause is expanded to provide for the fixing or determining of Crown dues by a formula employing index numbers of any price index published by Statistics Canada. Regulations may also be made to provide a method of categorizing licensees in respect of the application of any such formula.


Clause *e* of the said section 51 now reads as follows :

(e) fixing the times at which Crown charges are payable and the rate of interest to be charged on overdue accounts.

The clause is expanded to provide for compound interest and its calculation.

- (iii) any forfeiture or suspension considered necessary to administer effectively any such method,
- (iv) the filing of any certificate, affidavit and other material considered necessary for the purposes of any such method,
- (v) determining when a licensee shall be deemed to have failed or neglected to file any such certificate, affidavit or other material, and
- (vi) informing licensees of Crown dues determined by any formula;
- (e) fixing the times at which Crown charges are payable and the rate and kind of interest to be charged on overdue accounts and prescribing the method of calculating or compounding any such interest.

 **6.**—(1) This Act, except section 1 and subsection 1 of section 5, ^{Commence-}comes into force on the day it receives Royal Assent. _{ment}

(2) Section 1 and subsection 1 of section 5 shall be deemed ^{Idem}to have come into force on the 1st day of April, 1978. 

7. The short title of this Act is *The Crown Timber Amendment* ^{Short title}
Act, 1978.

An Act to amend
The Crown Timber Act

1st Reading

March 14th, 1978

2nd Reading

May 30th, 1978

3rd Reading

THE HON. F. S. MILLER
Minister of Natural Resources

*(Reprinted as amended by the
Committee of the Whole House)*

211 BILL 35

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Crown Timber Act

THE HON. F. S. MILLER
Minister of Natural Resources





BILL 35

1978

An Act to amend The Crown Timber Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 6 of *The Crown Timber Act*, being chapter 102 of the Revised Statutes of Ontario, 1970, is <sup>s. 6 (2),
re-enacted</sup> repealed and the following substituted therefor:

(2) Every licensee shall pay annually an area charge in respect of the productive lands comprised in the licensed area. <sup>Area
charge</sup>

2. Subsection 4 of section 25 of the said Act is repealed and the <sup>s. 25 (4),
re-enacted</sup> following substituted therefor:

(4) The Minister may enter into an agreement with a licensee for the promotion and maintenance of the productivity of the licensed area by establishing, regenerating and tending forests and employing silvicultural cutting systems to regenerate forests. <sup>Minister
may enter
into
agreements</sup>

- 3.—(1) Clause *i* of subsection 1 of section 46 of the said Act is <sup>s. 46 (1) (i),
re-enacted</sup> repealed and the following substituted therefor:

(i) makes or avails himself of any false statement or oath with respect to any matter under this Act or the regulations, is liable to a penalty of not less than \$100 and not more than \$500.

- (2) Subsection 2 of the said section 46, exclusive of the <sup>s. 46 (2),
amended</sup> clauses, is repealed and the following substituted therefor:

(2) Where in the opinion of the Minister a person is liable to a penalty under subsection 1 or the regulations, he may give notice to the person by registered mail, <sup>Demand for
penalty</sup>

s. 46 (3) (a),
re-enacted

- (3) Clause *a* of subsection 3 of the said section 46 is repealed and the following substituted therefor:

(a) to determine whether such person is liable to a penalty under subsection 1 or the regulations, and

.

s. 49.
re-enacted

4. Section 49 of the said Act is repealed and the following substituted therefor:

Regula-
tions re
Crown
charges

49. Notwithstanding anything in this Act or any general or special Act or in any order, regulation, agreement or licence, any regulation made under clause *c* or *d* of section 51 may be made to come into force on the 1st day of April immediately preceding its filing or on any day subsequent to that 1st day of April.

Determina-
tion of
Crown dues

49a. Unless otherwise provided in the regulations, the Crown dues to be paid in respect of timber by a licensee or class of licensee are those Crown dues fixed or determined under the regulations in force at the time the timber is measured, notwithstanding that the timber is cut before the regulations come into force.

s. 51 (c),
re-enacted

- 5.—(1) Clause *c* of section 51 of the said Act is repealed and the following substituted therefor:

(c) fixing the amount of area charge and other charges to be paid in respect of licensed areas.

s. 51 (d, e),
re-enacted

- (2) Clauses *d* and *e* of the said section 51 are repealed and the following substituted therefor:

(d) fixing or determining the Crown dues to be paid by a licensee or class of licensee in respect of any kind or class of timber, other than killed or damaged timber, cut under licence and, without limiting the generality of the foregoing, such regulations may provide for,

(i) the fixing or determining of Crown dues by a formula employing any index number existing before or coming into existence after the regulations come into force, of any price index, or any average of any such index numbers,

(ii) a method of categorizing any licensee or class of licensee in respect of the application of any such formula,

- (iii) any forfeiture or suspension considered necessary to administer effectively any such method,
 - (iv) the filing of any certificate, affidavit and other material considered necessary for the purposes of any such method,
 - (v) determining when a licensee shall be deemed to have failed or neglected to file any such certificate, affidavit or other material, and
 - (vi) informing licensees of Crown dues determined by any formula;
- (e) fixing the times at which Crown charges are payable and the rate and kind of interest to be charged on overdue accounts and prescribing the method of calculating or compounding any such interest.

6.—(1) This Act, except section 1 and subsection 1 of section 5, ^{Commence-}comes into force on the day it receives Royal Assent. ^{ment}

(2) Section 1 and subsection 1 of section 5 shall be deemed ^{Idem}to have come into force on the 1st day of April, 1978.

7. The short title of this Act is *The Crown Timber Amendment* ^{Short title}
Act, 1978.

An Act to amend
The Crown Timber Act

1st Reading

March 14th, 1978

2nd Reading

May 30th, 1978

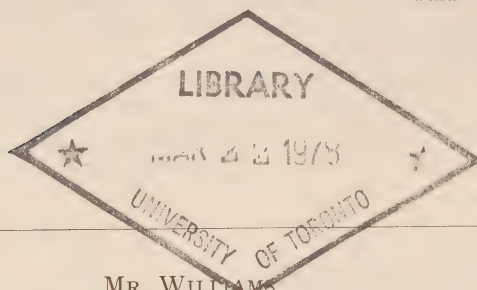
3rd Reading

June 23rd, 1978

THE HON. F. S. MILLER
Minister of Natural Resources

2ND SESSION, 31ST LEGISLATURE, } ONTARIO
27 ELIZABETH II, 1978

**An Act to amend
The Legislative Assembly Act**



MR. WILLIAMS

EXPLANATORY NOTE

The amendment would require a person who holds office as a member of a council of a municipality and whose term of office is not yet three-quarters expired to resign his office on official nomination day if he wishes to be elected to the Assembly.

BILL 36

1978

An Act to amend The Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8a of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 131, section 1, is repealed and the following substituted therefor:

8a.—(1) In this section,

Interpre-
tation

(a) “nomination day” means the nomination day stated in the writ for election under section 7 of *The Election Act*;

R.S.O. 1970,
c. 142

(b) “municipal office” means a position as a member of the council of any municipality, including a district, area, metropolitan or regional municipality, or of a local board, as defined in *The Municipal Affairs Act*, of a municipality.

R.S.O. 1970,
c. 118

(2) Subject to subsections 3 and 4, a person who is a candidate for election to or a member of the Assembly is not eligible to hold municipal office.

Candidate
member
ineligible to
hold muni-
cipal office

(3) Every person who holds a municipal office and is nominated as a candidate for election to the Assembly forfeits the municipal office on nomination day unless the term of the office is more than three-quarters complete on that day.

Where
candidate
ineligible
on nomina-
tion day

(4) A person who, while a candidate, continues to hold a municipal office and is elected a member of the Assembly forfeits the municipal office on the day that the return of the election of that person to the Assembly is published in *The Ontario Gazette* under section 127 of *The Election Act*.

When
elected
candidate
ineligible

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Legislative Assembly Amendment Act, 1978*.

BILL 36

An Act to amend
The Legislative Assembly Act

1st Reading

March 14th, 1978

2nd Reading

3rd Reading

MR. WILLIAMS

(*Private Member's Bill*)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Public Hospitals Act



MR. WILLIAMS

EXPLANATORY NOTE

The Bill establishes several requirements relating to the composition of the boards of public hospitals. The Bill provides that the number of appointed directors who have a vote shall not exceed one-quarter of the elected directors. In addition, the Bill establishes certain criteria for membership in a hospital corporation and guarantees a member's right to vote in the hospital corporation.

BILL 37

1978

An Act to amend The Public Hospitals Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Hospitals Act*, being chapter 378 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 8a,
enacted

8a.—(1) In this section,

Interpre-
tation

- (a) “local municipality” means a city, borough, town, village and township;
- (b) “locality” means a territory without municipal organization;
- (c) “resident” means a person who is actually resident in a local municipality or locality.

(2) Subject to section 9 and the regulations under this Act, the board of a hospital shall be elected from among the members of the hospital corporation. Board
elected by
members

(3) A person is eligible to be a member of a hospital corporation if that person is, Eligibility
for
member-
ship

- (a) a resident of the local municipality or locality in which the hospital is situated;
- (b) a resident of a local municipality or locality adjacent to the local municipality or locality in which the hospital is situated.

(4) Where payment of a membership fee is required for membership in a hospital corporation, the fee shall be the same for all members and shall not exceed ten dollars per annum. Member-
ship fee

One class
of member

(5) A hospital corporation shall have one class of member and each member shall have one vote.

Limit on
staff
directors

(6) The number of directors, whether elected or appointed, who are members of the medical, dental, nursing or administrative staffs of the hospital, or who enjoy hospital privileges at the hospital, shall not exceed at any time one-quarter of the number of directors of the hospital.

Conflict
R.S.O. 1970,
c. 89

(7) In the event of a conflict between any provision of this section and any provision of *The Corporations Act*, the provision of this section applies.

s. 9,
re-enacted

2. Section 9 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 90, section 8, is repealed and the following substituted therefor:

By-laws

9.—(1) A hospital shall pass by-laws prescribed by the regulations, subject to the approval of the Minister.

Idem

(2) A hospital shall pass, amend or revise its by-laws and submit them to the Minister after receiving notice to do so as prescribed by the regulations.

Idem

(3) No by-law, or amendment to or revision of a by-law made under subsection 2, has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation of the Minister.

Election of
directors

(4) Notwithstanding *The Corporations Act*, a hospital may provide by by-law for the election and retirement of directors, but the election of directors shall take place in each year at a general meeting of members and the terms of office of the elected directors shall be for a period extending to the day of the general meeting in the following year.

Appointed
directors

(5) Notwithstanding *The Corporations Act*, a hospital may by by-law provide for the appointment by its board of one or more classes of directors and in any such by-law the board may fix the number, qualifications and tenure of office of the directors in each class and shall state whether the directors in each class have voting rights, but where a by-law provides an appointed director with a right to vote, the director may vote in person but not by proxy.

Limitation

(6) The number of directors with a right to vote appointed by the board shall not exceed at any time one-eighth the number of elected directors of the board.

(7) Notwithstanding *The Corporations Act*, upon the recommendation of the Minister, the Lieutenant Governor in Council may appoint one or more provincial hospital representatives to the board of a hospital for a term of office of not more than three years and such provincial hospital representatives shall have all the rights and responsibilities of elected directors.

Provincial
hospital
representa-
tives
R.S.O. 1970,
c. 89

(8) The number of directors with voting rights appointed by the board plus the number of provincial hospital representatives appointed by the Lieutenant Governor in Council shall not exceed at any time one-quarter the number of elected directors.

Limitation

(9) Members of the board who are members by virtue of their office shall not have a right to vote.

Ex officio
directors

(10) Any director who is serving as an appointed director on the day preceding the day *The Public Hospitals Amendment Act, 1977* comes into force shall continue to have the rights and privileges attached to the appointment and such director shall be deemed not to be a member of the board for the purposes of this section until the term of appointment expires.

Transition

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

4. The short title of this Act is *The Public Hospitals Amendment Act, 1978*.

Short title

BILL 37

An Act to amend
The Public Hospitals Act

1st Reading

March 14th, 1978

2nd Reading

3rd Reading

MR. WILLIAMS

(Private Member's Bill)

BILL 38

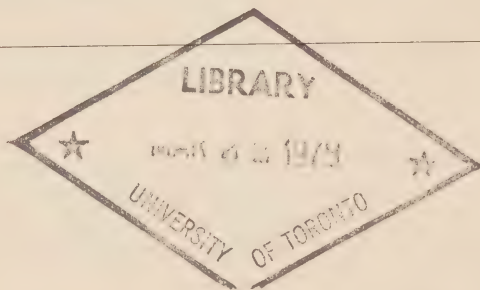
Private Member's Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act respecting Family Day

MR. WILLIAMS



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to provide for a public holiday known as Family Day. Family Day is established as a day to celebrate the institution of the family and will be held on a day to be named by the Lieutenant Governor.

BILL 38

1978

An Act respecting Family Day

WHEREAS the family is a source of values that are Preamble
essential to the existence of a peaceful and healthy
society;

AND WHEREAS the family, as the focal point of daily life,
offers mutual help, comfort and support to each of its
members;

AND WHEREAS it is public policy in Ontario to preserve
and strengthen the family as the basic unit of society;

AND WHEREAS, since some social and economic influences
threaten to fragment the family, it is desirable that every
citizen honour the family by reflecting upon the benefits and
obligations that he or she shares as a family member;

Therefore, Her Majesty, by and with the advice and
consent of the Legislative Assembly of the Province of
Ontario, enacts as follows:

1. There shall be one day in every year, on a day to be Family Day
named by proclamation of the Lieutenant Governor, that
is known as Family Day and this day shall be celebrated
as a public holiday throughout the Province of Ontario.

2. This Act comes into force on the day it receives Royal Commence-
Assent. ment

3. The short title of this Act is *The Family Day Act, 1978*. Short title

BILL 38

An Act respecting
Family Day

1st Reading

March 14th, 1978

2nd Reading

3rd Reading

MR. WILLIAMS

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978



An Act to amend The Labour Relations Act

MR. WILLIAMS



EXPLANATORY NOTE

The Bill requires a trade union to provide additional information about its financial affairs to members and to the Ontario Labour Relations Board. The union must prepare a statement of salaries, expenses, fees and commissions and a statement of investments to be provided to its members. An audited financial report must be filed annually with the Board and the members of the trade union may obtain copies of the statement from the union upon request and without charge.

In addition, the Bill limits the amount of union funds provided by Ontario members that may be transferred outside of Canada and requires that investments made of union funds be of a type authorized by *The Trustee Act* and *The Pension Benefits Act*.

BILL 39

1978

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 76 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 19, is repealed and the following substituted therefor: s. 76.
re-enacted

76.—(1) Every trade union shall file with the Board within six months from the end of its fiscal year a financial statement of its affairs to the end of that fiscal year consisting of, Financial
statement

- (a) a balance sheet showing the assets and liabilities of the union as at the end of the fiscal year;
- (b) a statement of income and expenditure for the fiscal year; and
- (c) a statement of surplus for the fiscal year, and

upon the request of any member shall provide the member with a copy of the financial statement without charge.

(2) The financial statement shall be accompanied at the time of filing by an auditor's report thereon signed by the auditor and stating whether in his opinion the financial statement presents fairly the financial position of the union and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. Auditor's
report

(3) Every trade union local shall provide to each of its members without charge and file with the Board within six months from the end of its fiscal year, Statement
of salaries
and invest-
ments

- (a) a statement of salaries, expenses, fees and commissions paid from union funds to its elected officers disclosing to whom the payments were made, in what amount and for what purposes; and
- (b) a statement of investments describing separately each investment made with union funds.

Idem

(4) Every trade union that has a national or regional office located in Ontario shall provide to each of its members without charge and file with the Board within six months from the end of its fiscal year the statements referred to in subsection 3 in respect of the trade union's national or regional officers and its investments.

Where
financial
statement
inadequate

(5) Where the Board, for any reason, determines that a statement referred to in this section is inadequate, the Board may order the trade union to prepare another statement in a form and containing such particulars as the Board considers appropriate.

Offence

(6) A trade union that fails to provide or file financial statements or information as and when required by this section is guilty of an offence under this Act, and every officer, executive or agent of the union who directed, authorized, assented to, acquiesced in or participated in the offence is a party to and guilty of the offence.

s. 76b,
enacted

- 2.** The said Act is amended by adding thereto the following section:

Invest-
ments

R.S.O. 1970,
cc. 470, 342

76b.—(1) A trade union shall not make an investment of union funds unless the investment belongs to a class of investment authorized by or under *The Trustee Act* or *The Pension Benefits Act*.

Funds to
be spent in
Canada

(2) No trade union shall pay, transfer or invest outside of Canada more than 15 per cent of the funds received by it from union members residing in Ontario.

Commence-
ment

- 3.** This Act comes into force on the day it receives Royal Assent.

Short title

- 4.** The short title of this Act is *The Labour Relations Amendment Act, 1978*.

An Act to amend
The Labour Relations Act

1st Reading

March 14th, 1978

2nd Reading

3rd Reading

MR. WILLIAMS

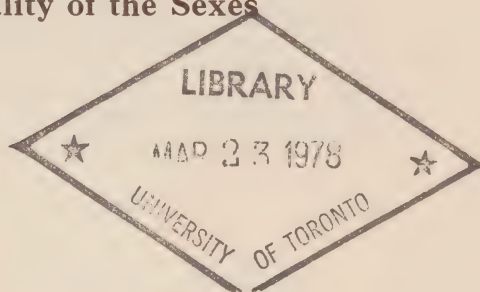
(Private Member's Bill)

BILL 40

Private Member's Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to provide for the
Economic Equality of the Sexes**



MRS. CAMPBELL

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides a remedy to an individual against an employer who is the recipient of public funds and who discriminates in employment practices on the basis of the sex of that individual. The Bill permits a person to apply to a court for an order suspending the payment of public funds to an employer who discriminates in that manner. The employer may apply to a court to terminate the order when the employer is no longer conducting such discriminatory practices.

BILL 40

1978

An Act to provide for the Economic Equality of the Sexes

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "association" means an unincorporated association;
- (b) "person" means an individual person;
- (c) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

2. No public funds shall be paid to any person, corporation, association or undertaking that discriminates in employment practices on the basis of sex in a manner contrary to *The Ontario Human Rights Code*.

Prohibition

R.S.O. 1970,
c. 318

3.—(1) Any person who feels aggrieved by discrimination may apply to a judge of the Supreme Court for an order enjoining the Treasurer from paying public funds to a person, corporation, association or undertaking named in the application and the judge may so order where the judge is of the opinion that the named person, corporation, association or undertaking is discriminating in the manner referred to in section 2.

Restraining
order

(2) A person, corporation, association or undertaking named in an application under subsection 1 is a party to proceedings under this Act.

Idem

(3) A judge of the Supreme Court, upon application therefor, may by order terminate an order made under subsection 1 where the judge is satisfied that the person, corporation, association or undertaking named in the order is no longer discriminating in employment practices on the basis of sex contrary to *The Ontario Human Rights Code*.

Termination
of order

Conflict
R.S.O. 1970,
c. 365

4. This Act applies notwithstanding *The Proceedings Against the Crown Act* or any other Act.

Commence-
ment

5. This Act comes into force on the 1st day of July, 1978.

Short title

6. The short title of this Act is *The Equal Opportunity Act, 1978*.

An Act to provide for the
Economic Equality of the Sexes

1st Reading

March 14th, 1978

2nd Reading

3rd Reading

MRS. CAMPBELL

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to amend
The Public Commercial Vehicles Act**

THE HON. J. W. SNOW
Minister of Transportation and Communications



EXPLANATORY NOTES

SECTION 1. The provision makes it an offence for a person shipping goods to hire a transporter whom the shipper knows does not have the necessary licence.

SECTION 2.—Subsection 1. Section 15c (1) of the Act presently gives an officer of the Ministry authority to examine business records and documents of a holder of an operating licence in respect of a public commercial vehicle business. The amendment extends this authority to include the holder of a freight forwarder's licence.

Subsection 2. Section 15c (2) and (3) of the Act presently authorize the Minister to appoint persons to investigate possible contravention of the Act. Section 15c (3) sets out the power to examine documents, etc., and to enter business premises.

The basic change in the provisions as recast is that the power to examine documents and enter business premises will apply when an investigator believes on reasonable and probable grounds that there is a contravention of the Act. Presently they apply when the Minister so believes.

Subsections 3, 4, 5, 6. The changes are ones in wording made necessary by section 2 (2) of the Bill. There are no substantive changes.

BILL 41

1978

An Act to amend The Public Commercial Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Commercial Vehicles Act*, being chapter 375 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 2a,
enacted

2a. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a commercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. Hiring of
unlicensed
commercial
vehicle

- 2.—(1) Subsection 1 of section 15c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 71, is amended by inserting after “vehicles” in the fourth line “or of the holder of a freight forwarder’s licence relating to his business as a freight forwarder”. s. 15c (1),
amended

- (2) Subsections 2 and 3 of the said section 15c, as enacted by the Statutes of Ontario, 1973, chapter 166, section 11, are repealed and the following substituted therefor: s. 15c (2, 3),
re-enacted

(2) The Minister may appoint one or more officers of the Ministry as investigators for the purpose of carrying out investigations to ascertain compliance with this Act and the regulations thereunder. Appointment
of
investigators

(3) Where an investigator appointed under subsection 2 believes on reasonable and probable grounds that any person has contravened any of the provisions of this Act or the regulations, he may inquire into and examine the affairs of that person and may, Examination
of records,
etc.

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the purported contravention; and
- (b) inquire into negotiations and transactions made by or on behalf of or in relation to such person relating to the transportation of goods or the use of commercial vehicles or that are otherwise relevant to the subject-matter of the investigation,

1971, c. 49 and for the purpose of the inquiry, the investigator has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

s. 15c (4),
amended

- (3) Subsection 4 of the said section 15c, as enacted by the Statutes of Ontario, 1973, chapter 166, section 11, is amended by striking out "a person appointed to make an investigation under this section" in the first and second lines and inserting in lieu thereof "an investigator appointed under subsection 2".

s. 15c (5),
re-enacted

- (4) Subsection 5 of the said section 15c, as enacted by the Statutes of Ontario, 1973, chapter 166, section 11, is repealed and the following substituted therefor:

Issuance
of order

- (5) Where a provincial judge is satisfied upon an *ex parte* application by an investigator appointed under subsection 2 that there are reasonable grounds for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 3, issue an order authorizing the investigator, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the investigator to make the search at night.

s. 15c (6),
amended

- (5) Subsection 6 of the said section 15c, as enacted by the Statutes of Ontario, 1973, chapter 166, section 11, is amended by striking out "Any person making an investigation under this section" in the first and second lines and inserting in lieu thereof "An investigator appointed under subsection 2".

- (6) Subsection 7 of the said section 15*c*, as enacted by the Statutes of Ontario, 1973, chapter 166, section 11, is amended by striking out "person" in the second line and inserting in lieu thereof "investigator". <sup>s. 15*c* (7),
amended</sup>
- 3.** This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
- 4.** The short title of this Act is *The Public Commercial Vehicles Amendment Act, 1978*. ^{Short title}

BILL 41

An Act to amend
The Public Commercial Vehicles Act

1st Reading

March 16th, 1978

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

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Government
Publication

BILL 142

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications



EXPLANATORY NOTE

This provision permits the Registrar to order the vehicle plates and permits of an out-of-province vehicle to be seized where there is misconduct or contravention of *The Highway Traffic Act*, *The Public Vehicles Act* or *The Public Commercial Vehicles Act* by the owner or lessee of the vehicle.

The appeal provisions of section 29 of the Act would be available to any person whose plates and permits were so seized.

BILL 42

1978

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 27 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(4) The Registrar may, at any time for misconduct or contravention of the provisions of this Act, *The Public Vehicles Act* or *The Public Commercial Vehicles Act* or of any regulation thereunder by an owner or lessee of one or more motor vehicles or trailers for which permits have been issued by a jurisdiction or jurisdictions other than the Province of Ontario, order that the permit and number plates issued for such vehicle or vehicles be seized and any constable or any officer appointed for carrying out the provisions of this Act or the enforcement of *The Public Vehicles Act* or *The Public Commercial Vehicles Act* may seize the permit and number plates and deliver them to the Ministry which shall return them to the authority that issued them.

s. 27,
amended

Power to
seize out-of-
province
permits and
plates
R.S.O. 1970,
cc. 392, 375

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Highway Traffic Amendment Act, 1978*.

Commence-
ment

Short title

BILL 42

An Act to amend
The Highway Traffic Act

1st Reading

March 16th, 1978

2nd Reading

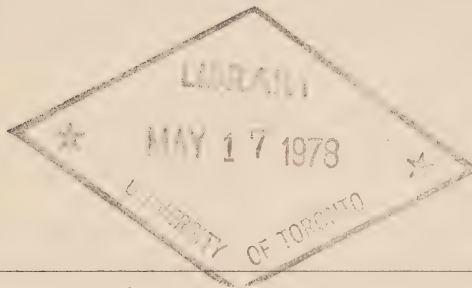
3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Highway Traffic Act



THE HON. J. W. SNOW
Minister of Transportation and Communications

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 42

1978

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 27 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: s. 27,
amended

(4) The Registrar may, at any time for misconduct or contravention of the provisions of this Act, *The Public Vehicles Act* or *The Public Commercial Vehicles Act* or of any regulation thereunder by an owner or lessee of one or more motor vehicles or trailers for which permits have been issued by a jurisdiction or jurisdictions other than the Province of Ontario, order that the permit and number plates issued for such vehicle or vehicles be seized and any constable or any officer appointed for carrying out the provisions of this Act or the enforcement of *The Public Vehicles Act* or *The Public Commercial Vehicles Act* may seize the permit and number plates and deliver them to the Ministry which shall return them to the authority that issued them. Power to
seize out-of-
province
permits and
plates
R.S.O. 1970,
cc. 392, 375

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Highway Traffic Amendment Act, 1978*. Short title

BILL 42

An Act to amend
The Highway Traffic Act

1st Reading

March 16th, 1978

2nd Reading

May 2nd, 1978

3rd Reading

May 2nd, 1978

THE HON. J. W. SNOW
Minister of Transportation and
Communications

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B56

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BILL 43

Government
Publications

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act for granting to Her Majesty certain additional sums
of money for the Public Service for the fiscal year ending
the 31st day of March, 1978**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



BILL 43

1978

An Act for granting to Her Majesty certain additional sums of money for the Public Service for the fiscal year ending the 31st day of March, 1978

MOST GRACIOUS SOVEREIGN:

WHEREAS it appears by messages from the Honourable Preamble
 Pauline M. McGibbon, Lieutenant Governor of the Province of Ontario, and the estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1978; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) In addition to the sum of \$12,349,226,300 granted by *The Supply Act, 1977*, there may be paid out of the Consolidated Revenue Fund a sum not exceeding the whole \$145,263,000 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1977, to the 31st day of March, 1978, as set forth in the Schedule to this Act, and, subject to subsection 2, such sum shall be paid and applied only in accordance with the votes and items of the supplementary estimates upon which the Schedule is based. \$145,263,000
granted for
fiscal year
1977-78
1977. c. 71

(2) Where, in the fiscal year ending the 31st day of March, Exception
 1978, powers and duties are assigned and transferred from one Minister of the Crown to another Minister of the Crown, the appropriate sums in the votes and items of the estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by

certificate of the Management Board of Cabinet to the ministry administered by the minister to whom the powers and duties are so assigned and transferred.

- | | |
|----------------------------------|--|
| Accounting
for
expenditure | 2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty. |
| Commence-
ment | 3. This Act comes into force on the day it receives Royal Assent. |
| Short title | 4. The short title of this Act is <i>The Supply Act, 1978</i> . |

SCHEDULE

Agriculture and Food	\$ 2,739,000
Education	107,189,000
Government Services	31,335,000
Northern Affairs	2,500,000
Treasury, Economics and Intergovernmental Affairs	1,500,000
Total	\$145,263,000

An Act for granting to Her Majesty certain additional sums of money for the Public Service for the fiscal year ending the 31st day of March, 1978

1st Reading

March 16th, 1978

2nd Reading

March 16th, 1978

3rd Reading

March 16th, 1978

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

Public

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2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislature Document

An Act to amend The Education Act, 1974

MR. SWEENEY



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment by the province of schools for children with severe learning disabilities. The Bill requires the Minister to make an annual report concerning the facilities and services provided for these children and the report shall be referred to a standing committee for review.

BILL 44

1978

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Education Act, 1974*, being chapter 109, is amended by adding thereto the following section: s. 3a,
enacted

3a. The Minister shall, after the close of each year, submit to the Lieutenant Governor in Council a report upon the efforts of the Ministry to establish schools and provide facilities and services to pupils with severe learning disabilities and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session and the report shall then be referred to a standing committee of the Assembly. Annual
report re
pupils with
severe
learning
disabilities

2. Clause s of subsection 1 of section 8 of the said Act is repealed and the following substituted therefor: s. 8 (1) (s),
re-enacted

(s) in respect of schools for the deaf and the blind and schools for pupils with severe learning disabilities, determine the number of terms and the dates upon which each term begins and ends.

3. The said Act is further amended by adding thereto the following section: s. 12a,
enacted

12a.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister shall establish, maintain and operate one or more schools for pupils with severe learning disabilities. Schools for
pupils with
severe
learning
disabilities

(2) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to such schools for pupils with severe learning disabilities, Regulations

- (a) prescribing the terms and conditions upon which pupils may,
 - (i) be admitted to, and remain in, a school,
 - (ii) reside in homes approved by a superintendent, and
 - (iii) be discharged from a school;
- (b) authorizing the Minister to appoint a committee to determine any question concerning the eligibility for admission of an applicant;
- (c) authorizing a superintendent to establish rules in respect of pupils admitted to the school;
- (d) authorizing a superintendent to dismiss a pupil and prescribing procedures in respect thereof;
- (e) authorizing the Minister to provide training for, and certification of, teachers of pupils with severe learning disabilities;
- (f) designating the name of each school established under this section.

s. 20 (3),
re-enacted

- 4.** Subsection 3 of section 20 of the said Act is repealed and the following substituted therefor:

Idem

(3) The fact that a child is blind, deaf, mentally handicapped or suffering from a severe learning disability is not of itself an unavoidable cause under clause *b* of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf, or school or class for trainable retarded children or a school for children with severe learning disabilities.

Commence-
ment

- 5.** This Act comes into force on the day it receives Royal Assent.

Short title

- 6.** The short title of this Act is *The Education Amendment Act, 1978*.

An Act to amend
The Education Act, 1974

1st Reading

March 16th, 1978

2nd Reading

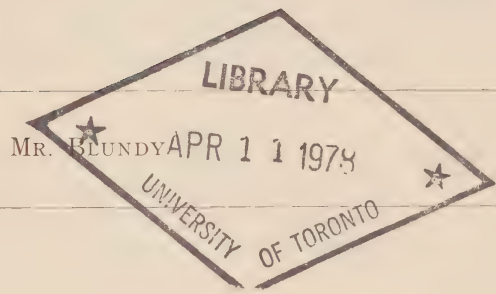
3rd Reading

MR. SWEENEY

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Consumer Protection Act



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides for warnings in rental contracts as to whether or not loss of or damage to the goods rented is included in the rental fee. The warnings also point out that the person renting the goods may be responsible for loss of or damage to the rented goods where no insurance is included.

BILL 45

1978

An Act to amend The Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act*, being chapter 82 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 47a,
enacted

47a.—(1) Where a person enters into a contract for the rental of goods, the owner of the goods or his agent, as the case may be, shall inform the person as to whether or not insurance for loss of or damage to the goods is included in the rental fee. Whether
insurance
included in
rental fee

(2) Where a contract referred to in subsection 1 is a written contract, the contract shall have printed on it in bold face type in the manner prescribed in the regulations, a warning as to whether or not insurance for loss of or damage to the goods is included in the rental fee. Warning

(3) Where a contract referred to in subsection 1 does not include insurance for loss of or damage to the goods as part of the rental fee, the owner of the goods or his agent shall inform the person renting the goods that the person may be responsible for loss of or damage to the goods rented. Responsi-
bility for
loss or
damage

(4) Where a contract referred to in subsection 3 is a written contract, the contract shall have printed on it in bold face type in the manner prescribed in the regulations, a warning that the person renting the goods may be responsible for loss of or damage to the goods rented. Warning

2. Section 49 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 50, section 23, is further amended by adding thereto the following clause: s. 49,
amended

(*p*) prescribing the manner in which the warnings referred to in section 47*a* shall be printed on rental contracts.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Consumer Protection Amendment Act, 1978*.

An Act to amend
The Consumer Protection Act

1st Reading

March 16th, 1978

2nd Reading

3rd Reading

MR. BLUNDY

(Private Member's Bill)

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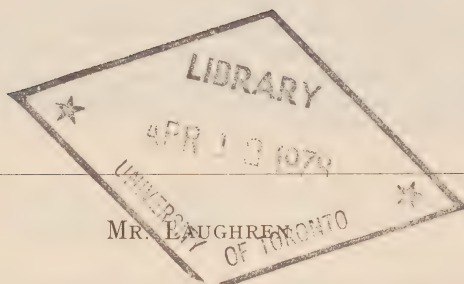
BILL 46

Government
Private Member's Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

*Legislative
Assembly*

An Act to amend The Workmen's Compensation Act



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to increase and index the level of benefits payable under *The Workmen's Compensation Act*. In addition, the Bill removes the ceiling on average earnings and provides for a new ceiling based on the calculation of a maximum wage rate. The Bill also provides for the continued payment of disability compensation for five years following the death of a recipient where the amount of the disability compensation exceeds the amount that would otherwise be paid to dependants as a dependant's allowance.

BILL 46

1978

An Act to amend The Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *c*, *d* and *f* as re-enacted by the Statutes of Ontario, 1974, chapter 70, section 1, and clause *e* as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 1, of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

- (c) where the widow or a widower is the sole dependant, a monthly payment of \$400;
- (d) where the dependants are a widow or a widower and one or more children, a monthly payment of \$400 with an additional monthly payment of \$100 for each child under the age of eighteen years;
- (e) where the dependants are children, a monthly payment of \$100 to each child under the age of eighteen years;
- (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$400 per month.

2. The said Act is amended by adding thereto the following section:

43a. The Board shall, as soon as possible after the 1st day of September in each year, review the wages and salaries

s. 36 (1)
(c, d, e, f),
re-enacted

s. 43a,
enacted

Maximum
wage rate

earned by workers who suffered injury and to whom compensation was paid during the preceding year and whenever such review indicates that 10 per cent or more of such workers were earning in excess of the maximum wage rate at the time of such review, the Board shall by order increase such maximum wage rate for accidents occurring on and after the first day of the succeeding calendar year by the appropriate number of increments of \$1,000 as is sufficient to reduce the number of workers whose salaries exceed the maximum wage rate below 10 per cent of the workers who suffered injury and to whom compensation was paid during the period under review.

s. 44 (1),
re-enacted

3. Subsection 1 of section 44 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, and 1975, chapter 47, section 10, is repealed and the following substituted therefor:

How average
earnings to
be computed

(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the employee was remunerated, but not so as in any case to exceed the maximum wage rate as determined by the Board under section 43a.

ss. 45a, 45b,
enacted

4. The said Act is further amended by adding thereto the following sections:

Compensation
indexed

45a. The amounts payable as compensation under this Part shall be adjusted on the 1st day of January and the 1st day of July in each year by a percentage amount equal to the percentage increase in the average industrial wage for Ontario during the preceding six month period as indicated by the Industrial Composite Average Weekly Wages and Salaries for Ontario published by Statistics Canada and the initial adjustment shall reflect the percentage increase in the average industrial wage since the 1st day of July, 1975.

Disability
compensation
continued

45b.—(1) Where death results from an injury in respect of which compensation for disability has been awarded to an employee and the amount of such compensation is greater than the amount payable under section 36, an amount equal to the compensation for disability, including any adjustments authorized to be made from time to time, shall be paid instead of the amount payable under section 36 for a period of five years following the death of the injured employee and the compensation shall be paid in the same manner and subject to the same conditions as compensation paid under section 36.

(2) Upon the termination of the five year period referred to in subsection 1, each dependant shall be paid compensation pursuant to section 36. Compensation continued

5. This Act comes into force on the day it receives Royal Assent. Commencement
6. The short title of this Act is *The Workmen's Compensation Amendment Act, 1978*. Short title

BILL 46

An Act to amend
The Workmen's Compensation Act

1st Reading

March 28th, 1978

2nd Reading

3rd Reading

MR. LAUGHREN

(Private Member's Bill)

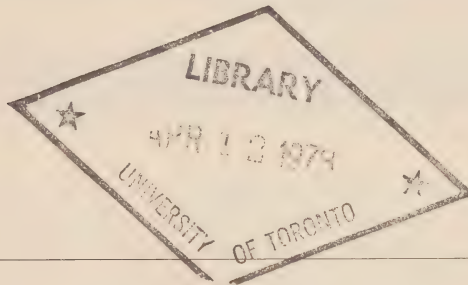
3 11 BILL/47

Private Member's Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

2
Legislative
Assembly

An Act respecting the Age of Mandatory Retirement



MR. LELUK

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The purpose of the Bill is to ensure that no person shall be required to retire before reaching the age of seventy where the person is willing and capable of performing his or her job.

SECTION 1. *The Employment Standards Act, 1974* is amended to prohibit an employer from including mandatory retirement below the age of seventy as a term or condition of a benefit plan offered to employees.

SECTION 2. *The Ontario Human Rights Code* is amended to specifically prevent an employer from establishing a mandatory retirement age below the age of seventy as a term or condition of employment. The Code is also amended to limit the scope of a provision creating an exception for mandatory retirement policies from the prohibition against discrimination on the basis of age in employment practices.

BILL 47

1978

An Act respecting the Age of Mandatory Retirement

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 34 of *The Employment Standards Act, 1974*, 1974, c. 112, s. 34, being chapter 112, is amended by adding thereto the amended following subsection:

(2a) No employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that includes, as a term or condition thereof, a requirement that the employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. Mandatory retirement age

- (2) Subsection 3 of the said section 34 is amended by adding s. 34 (3), amended at the end thereof "or 2a".

- (3) Subsection 4 of the said section 34 is amended by in- s. 34 (4), amendedserting after "2" in the fourth line "or 2a".

- 2.—(1) Section 4 of *The Ontario Human Rights Code*, being R.S.O. 1970, c. 318, s. 4, amended chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 5 and amended by 1974, chapter 73, sections 2 and 3, is further amended by adding thereto the following subsection:

(10) Nothing in subsection 9 shall be construed to authorize a term or condition in a superannuation or pension fund or plan that requires an employee to retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years. Mandatory retirement age

s. 4b,
enacted

- (2) The said Act is amended by adding thereto the following section:

Mandatory
retirement

4b. No person shall, as a term or condition of employment, require an employee to retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years.

s. 19 (a),
re-enacted

- (3) Clause *a* of section 19 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 14, is repealed and the following substituted therefor:

(a) "age" means any age of forty years or more and less than seventy years.

R.S.O. 1970,
c. 342, s. 21,
amended

3. Section 21 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 113, section 4, is further amended by adding thereto the following subsections:

Mandatory
retirement
provision

(10a) A pension plan filed for registration in accordance with section 18 shall not require, as a term or condition thereof, that an employee shall retire upon attaining a specified retirement age, by reason only of having attained that age, where the retirement age is less than seventy years.

Plans
amended

(10b) Every pension plan filed for registration prior to the day *The Age of Retirement Act, 1978* comes into force that requires, as a term or condition thereof, the retirement of an employee at an age less than seventy years shall be deemed to require retirement at seventy years of age.

R.S.O. 1970,
c. 386, s. 17,
re-enacted

4. Section 17 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 96, section 5, is repealed and the following substituted therefor:

Age of
retirement

17. Every civil servant shall retire at the end of the month in which he attains the age of seventy years, but where, in the opinion of the Commission, special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for one or more periods not exceeding one year at a time thereafter.

Commence-
ment

5. This Act comes into force on the 1st day of January, 1979.

Short title

6. The short title of this Act is *The Age of Retirement Act, 1978*.

SECTION 3. *The Pension Benefits Act* is amended to prevent the registration of a pension plan containing a term or condition requiring the retirement of persons under the age of seventy.

SECTION 4. *The Public Service Act* is amended to raise the age of mandatory retirement from sixty-five years to seventy years.

An Act respecting the
Age of Mandatory Retirement

1st Reading

March 28th, 1978

2nd Reading

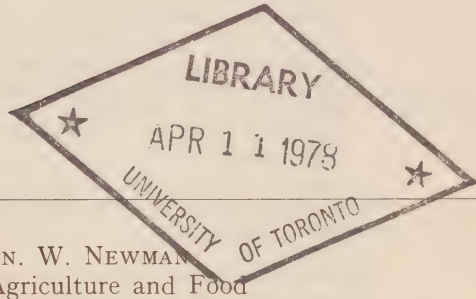
3rd Reading

MR. LEUK

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978
Legislative Assembly

**An Act respecting Commodity Boards and
Marketing Agencies**



THE HON. W. NEWMAN
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTION 1 is an interpretation section and is complementary to sections 2 and 5 of the Bill.

SECTION 2.—Subsection 1. Subsection 2 of section 2 of the *Agricultural Products Marketing Act* (Canada) now reads as follows:

(2) *The Governor in Council may by order grant to any board or agency mentioned in subsection (1) authority,*

(a) *in relation to the powers granted to such board or agency under the laws of any province with respect to the marketing of any agricultural product locally within the province, and*

(b) *in relation to the powers that may be granted to such board or agency under this Act with respect to the marketing of any agricultural product in interprovincial and export trade,*

to fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of any agricultural product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, to use such levies or charges for the purposes of such board or agency, including the creation of reserves, and the payment of expenses and losses resulting from the sale or disposal of any such agricultural product, and the equalization or adjustment among producers of any agricultural product of moneys realized from the sale thereof during such period or periods of time as the board or agency may determine.

Paragraph e(vi) of section 2 of the *Farm Products Marketing Agencies Act* (Canada) now reads as follows:

(e) *“marketing plan” means a plan relating to the promotion, regulation and control of the marketing of any regulated product in interprovincial or export trade that includes provision for all or any of the following:*

(vi) *the imposition and collection by the appropriate agency of levies or charges from persons engaged in the growing or production of the regulated product or the marketing thereof and for such purposes classifying those persons into groups and specifying the levies or charges, if any, payable by the members of each such group.*

The Supreme Court of Canada in a judgment pronounced on the 19th day of January, 1978 held that section 2 (2) (a) of the *Agricultural Products Marketing Act* (Canada) is *ultra vires* the Parliament of Canada and that section 2(e) (vi) of the *Farm Products Marketing Agencies Act* (Canada) applies to marketing only in interprovincial or export trade.

The Court further held that the legislature of a province may validly enact legislation authorizing a commodity board to fix, impose and collect levies or charges respecting the marketing of a regulated product locally within the province and inferred that such authority may be granted to a marketing agency of Canada.

This subsection empowers the Lieutenant Governor in Council to grant such authority.

BILL 48

1978

An Act respecting Commodity Boards and Marketing Agencies

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "commodity board" means a local board under *The Farm Products Marketing Act* or a marketing board under *The Milk Act*; R.S.O. 1970,
cc. 162, 273
- (b) "marketing agency" means a marketing agency of Canada that is authorized to exercise powers of regulation in relation to the marketing of a regulated product in interprovincial or export trade and that has been granted authority to regulate the marketing of the regulated product locally within Ontario;
- (c) "regulated product" means a natural product of agriculture that is regulated by a commodity board or a marketing agency.

2.—(1) The Lieutenant Governor in Council may, by regulation, grant to any commodity board or marketing agency in relation to the marketing of any regulated product locally within Ontario, authority to fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of the regulated product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, and to use such levies or charges for the purposes of such commodity board or marketing agency, including the creation of reserves, the payment of expenses and losses resulting from the sale or disposal of any such regulated product, and the equalization or adjustment among producers of any

Lieutenant
Governor
in Council
may grant
authority
re levies
or charges

regulated product of moneys realized from the sale thereof during such period or periods of time as the commodity board or marketing agency may determine.

Regulation
may require
deduction
of levies
or charges

(2) The Lieutenant Governor in Council may in a regulation made under subsection 1 require any person who receives a regulated product to deduct from the moneys payable for the regulated product any levies or charges payable to a commodity board or marketing agency by the person from whom he receives the regulated product and to forward such levies or charges to the commodity board or marketing agency or its agent designated for that purpose.

Authority
of commodity
board or
marketing
agency to
make
regulations,
etc.

(3) Where the Lieutenant Governor in Council authorizes a commodity board or marketing agency to exercise any of the powers mentioned in subsection 1, the commodity board or marketing agency, in the exercise of such powers, may make regulations or orders or issue directions.

Authority
may be
revoked

(4) The Lieutenant Governor in Council may, by regulation, revoke any authority granted under subsection 1.

Regulations

3. The Lieutenant Governor in Council may make regulations prescribing the terms and conditions governing the granting and revocation of authority under section 2 and generally may make regulations in respect of any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Offence

4.—(1) Every person who fails to comply with or contravenes any of the provisions of any regulation or order made or of any direction issued under this Act is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000.

Onus

(2) In any prosecution or action under this Act, the act or omission complained of, in respect of which the prosecution or action was instituted shall, unless the accused or defendant proves the contrary, be deemed to relate to the marketing of a regulated product locally within Ontario.

Levies
or charges
deemed
validly
imposed or
collected
or may be
collected
R.S.C. 1970,
c. A-7
1970-71-72,
c. 65 (Can.)

5. All levies or charges heretofore imposed or collected by a commodity board or a marketing agency pursuant to or purporting to be pursuant to the *Agricultural Products Marketing Act* (Canada) or the *Farm Products Marketing Agencies Act* (Canada) in respect of regulated products marketed locally within Ontario shall be deemed to have been imposed or collected pursuant to a regulation made under this Act and such levies or charges are hereby declared

Subsection 2 provides that a regulation made under subsection 1 may require the deduction of levies or charges from moneys payable for a regulated product.

Subsection 3 empowers a commodity board or marketing agency to make regulations or orders or issue directions in the exercise of any power granted to it under subsection 1.

Subsection 4 provides for the revocation of any authority granted under subsection 1.

SECTION 3 authorizes the Lieutenant Governor in Council to make regulations generally and for the purposes of section 2.

SECTION 4. Subsection 1 creates an offence and provides a penalty therefor.

Subsection 2 deems that, unless the accused or defendant proves the contrary, an act or omission complained of in a prosecution or action relates to marketing locally within Ontario.

SECTION 5. The section validates levies or charges heretofore imposed or collected and authorizes the collection of levies or charges imposed but not collected.

to have been validly imposed or collected and, where they were imposed but not collected, may be collected as if they had been imposed under this Act.

6. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}

7. The short title of this Act is *The Commodity Boards* ^{Short title} *and Marketing Agencies Act, 1978.*

BILL 48

An Act respecting
Commodity Boards and Marketing
Agencies

1st Reading

March 30th, 1978

2nd Reading

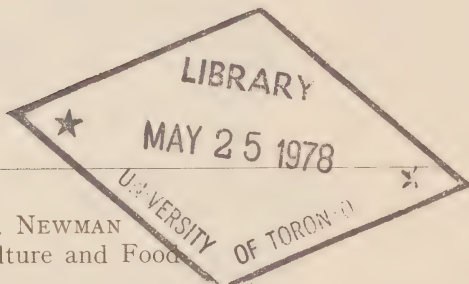
3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act respecting Commodity Boards and
Marketing Agencies**



THE HON. W. NEWMAN
Minister of Agriculture and Food

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTES

SECTION 1 is an interpretation section and is complementary to sections 2 and 5 of the Bill.

SECTION 2.—Subsection 1. Subsection 2 of section 2 of the *Agricultural Products Marketing Act* (Canada) now reads as follows:

- (2) *The Governor in Council may by order grant to any board or agency mentioned in subsection (1) authority,*
- (a) *in relation to the powers granted to such board or agency under the laws of any province with respect to the marketing of any agricultural product locally within the province, and*
 - (b) *in relation to the powers that may be granted to such board or agency under this Act with respect to the marketing of any agricultural product in interprovincial and export trade,*

to fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of any agricultural product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, to use such levies or charges for the purposes of such board or agency, including the creation of reserves, and the payment of expenses and losses resulting from the sale or disposal of any such agricultural product, and the equalization or adjustment among producers of any agricultural product of moneys realized from the sale thereof during such period or periods of time as the board or agency may determine.

Paragraph e(vi) of section 2 of the *Farm Products Marketing Agencies Act* (Canada) now reads as follows:

- (e) “marketing plan” means a plan relating to the promotion, regulation and control of the marketing of any regulated product in interprovincial or export trade that includes provision for all or any of the following:
- (vi) *the imposition and collection by the appropriate agency of levies or charges from persons engaged in the growing or production of the regulated product or the marketing thereof and for such purposes classifying those persons into groups and specifying the levies or charges, if any, payable by the members of each such group.*

The Supreme Court of Canada in a judgment pronounced on the 19th day of January, 1978 held that section 2 (2) (a) of the *Agricultural Products Marketing Act* (Canada) is *ultra vires* the Parliament of Canada and that section 2(e) (vi) of the *Farm Products Marketing Agencies Act* (Canada) applies to marketing only in interprovincial or export trade.

The Court further held that the legislature of a province may validly enact legislation authorizing a commodity board to fix, impose and collect levies or charges respecting the marketing of a regulated product locally within the province and inferred that such authority may be granted to a marketing agency of Canada.

This subsection empowers the Lieutenant Governor in Council to grant such authority.

BILL 48

1978

An Act respecting Commodity Boards and Marketing Agencies

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "commodity board" means a local board under *The Farm Products Marketing Act* or a marketing board under *The Milk Act*; R.S.O. 1970,
cc. 162, 273
- (b) "marketing agency" means a marketing agency of Canada that is authorized to exercise powers of regulation in relation to the marketing of a regulated product in interprovincial or export trade and that has been granted authority to regulate the marketing of the regulated product locally within Ontario;
- (c) "regulated product" means a natural product of agriculture that is regulated by a commodity board or a marketing agency.

2.—(1) The Lieutenant Governor in Council may, by regulation, grant to any commodity board or marketing agency in relation to the marketing of any regulated product locally within Ontario, authority to fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of the regulated product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, and to use such levies or charges for the purposes of such commodity board or marketing agency, including the creation of reserves, the payment of expenses and losses resulting from the sale or disposal of any such regulated product, and the equalization or adjustment among producers of any

Lieutenant
Governor
in Council
may grant
authority
re levies
or charges

regulated product of moneys realized from the sale thereof during such period or periods of time as the commodity board or marketing agency may determine.

Regulation
may require
deduction
of levies
or charges

(2) The Lieutenant Governor in Council may in a regulation made under subsection 1 require any person who receives a regulated product to deduct from the moneys payable for the regulated product any levies or charges payable to a commodity board or marketing agency by the person from whom he receives the regulated product and to forward such levies or charges to the commodity board or marketing agency or its agent designated for that purpose.

Authority
of commodity
board or
marketing
agency to
make
regulations,
etc.

(3) Where the Lieutenant Governor in Council authorizes a commodity board or marketing agency to exercise any of the powers mentioned in subsection 1, the commodity board or marketing agency, in the exercise of such powers, may make regulations or orders or issue directions.

Authority
may be
revoked

(4) The Lieutenant Governor in Council may, by regulation, revoke any authority granted under subsection 1.

Regulations

3. The Lieutenant Governor in Council may make regulations prescribing the terms and conditions governing the granting and revocation of authority under section 2 and generally may make regulations in respect of any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Offence

4.—(1) Every person who fails to comply with or contravenes any of the provisions of any regulation or order made or of any direction issued under this Act is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000.

Onus

(2) In any prosecution or action under this Act, the act or omission complained of, in respect of which the prosecution or action was instituted shall, unless the accused or defendant proves the contrary, be deemed to relate to the marketing of a regulated product locally within Ontario.

Levies
or charges
deemed
validly
imposed or
collected
or may be
collected
R.S.C. 1970.
c. A-7
1970-71-72.
c. 65 (Can.)



5. All levies or charges heretofore imposed or collected by,

- (a) a commodity board, the Canadian Turkey Marketing Agency or the Canadian Egg Marketing Agency pursuant to or purporting to be pursuant to the *Agricultural Products Marketing Act* (Canada) or the *Farm Products Marketing Agencies Act* (Canada); or

Subsection 2 provides that a regulation made under subsection 1 may require the deduction of levies or charges from moneys payable for a regulated product.

Subsection 3 empowers a commodity board or marketing agency to make regulations or orders or issue directions in the exercise of any power granted to it under subsection 1.

Subsection 4 provides for the revocation of any authority granted under subsection 1.

SECTION 3 authorizes the Lieutenant Governor in Council to make regulations generally and for the purposes of section 2.

SECTION 4. Subsection 1 creates an offence and provides a penalty therefor.

Subsection 2 deems that, unless the accused or defendant proves the contrary, an act or omission complained of in a prosecution or action relates to marketing locally within Ontario.

SECTION 5. The section validates levies or charges heretofore imposed or collected and authorizes the collection of levies or charges imposed but not collected.

(b) after the 19th day of January, 1978, a commodity board, the Canadian Turkey Marketing Agency or the Canadian Egg Marketing Agency,

in respect of regulated products marketed locally within Ontario shall be deemed to have been imposed or collected pursuant to a regulation made under this Act and such levies or charges are hereby declared to have been validly imposed or collected and, where they were imposed but not collected, may be collected as if they had been imposed under this Act.

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment

7. The short title of this Act is *The Commodity Boards and Marketing Agencies Act, 1978*. Short title

An Act respecting
Commodity Boards and Marketing
Agencies

1st Reading

March 30th, 1978

2nd Reading

May 2nd, 1978

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

*(Reprinted as amended by the
Resources Development Committee)*

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31. **BILL 48**

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act respecting Commodity Boards and
Marketing Agencies**

THE HON. W. NEWMAN
Minister of Agriculture and Food



BILL 48

1978

An Act respecting Commodity Boards and Marketing Agencies

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “commodity board” means a local board under *The Farm Products Marketing Act* or a marketing board under *The Milk Act*; R.S.O. 1970,
cc. 162, 273
- (b) “marketing agency” means a marketing agency of Canada that is authorized to exercise powers of regulation in relation to the marketing of a regulated product in interprovincial or export trade and that has been granted authority to regulate the marketing of the regulated product locally within Ontario;
- (c) “regulated product” means a natural product of agriculture that is regulated by a commodity board or a marketing agency.

2.—(1) The Lieutenant Governor in Council may, by regulation, grant to any commodity board or marketing agency in relation to the marketing of any regulated product locally within Ontario, authority to fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of the regulated product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, and to use such levies or charges for the purposes of such commodity board or marketing agency, including the creation of reserves, the payment of expenses and losses resulting from the sale or disposal of any such regulated product, and the equalization or adjustment among producers of any

Lieutenant
Governor
in Council
may grant
authority
re levies
or charges

regulated product of moneys realized from the sale thereof during such period or periods of time as the commodity board or marketing agency may determine.

Regulation
may require
deduction
of levies
or charges

(2) The Lieutenant Governor in Council may in a regulation made under subsection 1 require any person who receives a regulated product to deduct from the moneys payable for the regulated product any levies or charges payable to a commodity board or marketing agency by the person from whom he receives the regulated product and to forward such levies or charges to the commodity board or marketing agency or its agent designated for that purpose.

Authority
of commodity
board or
marketing
agency to
make
regulations,
etc.

(3) Where the Lieutenant Governor in Council authorizes a commodity board or marketing agency to exercise any of the powers mentioned in subsection 1, the commodity board or marketing agency, in the exercise of such powers, may make regulations or orders or issue directions.

Authority
may be
revoked

(4) The Lieutenant Governor in Council may, by regulation, revoke any authority granted under subsection 1.

Regulations

3. The Lieutenant Governor in Council may make regulations prescribing the terms and conditions governing the granting and revocation of authority under section 2 and generally may make regulations in respect of any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Offence

4.—(1) Every person who fails to comply with or contravenes any of the provisions of any regulation or order made or of any direction issued under this Act is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000.

Onus

(2) In any prosecution or action under this Act, the act or omission complained of, in respect of which the prosecution or action was instituted shall, unless the accused or defendant proves the contrary, be deemed to relate to the marketing of a regulated product locally within Ontario.

Levies
or charges
deemed
validly
imposed or
collected
or may be
collected
R.S.C. 1970,
c. A-7
1970-71-72,
c. 65 (Can.)

5. All levies or charges heretofore imposed or collected by,

(a) a commodity board, the Canadian Turkey Marketing Agency or the Canadian Egg Marketing Agency pursuant to or purporting to be pursuant to the *Agricultural Products Marketing Act* (Canada) or the *Farm Products Marketing Agencies Act* (Canada); or

- (b) after the 19th day of January, 1978, a commodity board, the Canadian Turkey Marketing Agency or the Canadian Egg Marketing Agency,

in respect of regulated products marketed locally within Ontario shall be deemed to have been imposed or collected pursuant to a regulation made under this Act and such levies or charges are hereby declared to have been validly imposed or collected and, where they were imposed but not collected, may be collected as if they had been imposed under this Act.

6. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}

7. The short title of this Act is *The Commodity Boards and Marketing Agencies Act, 1978*. ^{Short title}

An Act respecting
Commodity Boards and Marketing
Agencies

1st Reading

March 30th, 1978

2nd Reading

May 2nd, 1978

3rd Reading

June 19th, 1978

THE HON. W. NEWMAN
Minister of Agriculture and Food

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Government
Publications

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Municipal Act

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL

The Bill confers power on all municipalities to pass by-laws licensing, regulating and governing adult entertainment parlours (defined broadly in the Bill as premises in which are provided goods or services designed to appeal to erotic or sexual appetites or inclinations).

Certain additional powers are also granted in respect of the authority to license and regulate body-rub parlours now found in section 368a of the Act.

In addition, the Bill raises the maximum fines that may be levied for contravention of such by-laws and establishes a procedure for the closing, for a period of up to two years, of premises in respect of which any person has been convicted of a breach of any by-law licensing and regulating body-rub parlours or adult entertainment parlours.

SECTION 1. Section 368a of the Act now reads as follows:

368a.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection 3.

- (2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.*
- (3) A by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted.*
- (4) A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.*
- (5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.*
- (6) For the purposes of this section,*
 - (a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and*

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 of section 368*a* of *The Municipal Act*, s. 368*a* (2),
being chapter 284 of the Revised Statutes of Ontario, re-enacted
1970, as enacted by the Statutes of Ontario, 1975,
chapter 56, section 8, is repealed and the following
substituted therefor:

(2) A by-law passed under this section may provide for Signs,
regulating the placement, construction, size, nature and advertising,
character of signs, advertising, and advertising devices, etc.
including any printed matter, oral or other communication
or thing, posted or used for the purpose of promoting body-
rub parlours or for the prohibition of such signs, advertising,
or advertising devices.

- (2) Subsection 3 of the said section 368*a* is amended by s. 368*a* (3),
adding at the commencement thereof "Notwithstanding amended
subsection 6 of section 246".

- (3) The said section 368*a* is amended by adding thereto the s. 368*a*,
following subsections: amended

(5*a*) A by-law passed under this section may prohibit any Age
person carrying on or engaged in the trade, calling, business restriction
or occupation for which a licence is required under this
section from permitting any person under an age specified
in the by-law to enter or remain in the body-rub parlour
or any part thereof.

(5*b*) For the purpose of any prosecution or proceeding under *Prima*
a by-law passed under this section, the holding out to the facie
public that services described in this section are provided proof
in premises or any part thereof, is admissible in evidence as
prima facie proof that the premises or part thereof is a body-
rub parlour.

Other
powers not
affected

(5c) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

s. 368b,
enacted

2. The said Act is amended by adding thereto the following section:

Licensing,
regulating,
etc.,
adult enter-
tainment
parlours

368b.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof and for revoking or suspending any such licence and for limiting the number of such licences to be granted, in accordance with subsection 3.

Signs,
advertising,
etc.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting adult entertainment parlours or any class or classes thereof or for the prohibition of such signs, advertising or advertising devices.

Defined
areas,
limitation
on numbers

(3) Notwithstanding subsection 6 of section 246, a by-law passed under this section may define the area or areas of the municipality in which adult entertainment parlours or any class or classes thereof may or may not operate and may limit the number of licences to be granted in respect of adult entertainment parlours or any class or classes thereof in any such area or areas in which they are permitted.

Construc-
tion and
equipment
of premises

(4) A by-law passed under this section may provide that no premises in which an adult entertainment parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of an adult entertainment parlour, he may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Hours of
operation

(6) Notwithstanding subsection 2a of section 246 and section 355, a by-law passed under this section may regulate the hours of operation of adult entertainment parlours or any class or classes thereof.

(b) *“body-rub parlour” includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.*

The re-enactment of subsection 2 of section 368*a* adds “any printed matter, oral or other communication or thing” to the description of advertising or promotional matters that may be regulated.

The amendment to subsection 3 of section 368*a* is to make it clear that body-rub parlours may be prohibited from operating in a defined area even if one or more are located in that area at the time the by-law comes into force.

Subsections 5*a*, 5*b* and 5*c* are added to enlarge and clarify the powers conferred in respect of licensing and regulating body-rub parlours.

SECTION 2. The new section 368*b* confers on all municipalities the power to license, regulate, govern, classify and inspect in the manner specified adult entertainment parlours as defined in the section.

(7) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under an age specified in the by-law to enter or remain in the adult entertainment parlour or any part thereof.

Age
restriction

(8) By-laws passed under this section do not apply to premises or trades, callings, businesses or occupations carried on in premises licensed under *The Theatres Act* or licensed under *The Liquor Licence Act, 1975* or licensed under a by-law passed under section 368a of this Act.

Non-
application
of by-laws
R.S.O. 1970,
c. 459
1975, c. 40

(9) In this section,

Interpre-
tation

- (a) “adult entertainment parlour” means any premises or part thereof in which is provided goods or services appealing to or designed to appeal to, erotic or sexual appetites or inclinations;
- (b) “goods” includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter;
- (c) “to provide” when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and “providing” and “provision” have corresponding meanings;
- (d) “to provide” when used in relation to services includes to furnish, perform, solicit, or give such services and “providing” and “provision” have corresponding meanings;
- (e) “services” includes activities, facilities, performances, exhibitions, viewings and encounters;
- (f) “services designed to appeal to erotic or sexual appetites or inclinations” includes,
 - (i) services of which a principal feature or characteristic is the nudity or partial nudity of any person,
 - (ii) services in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

*Prima
facie
proof*

(10) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that goods or services described in this section are provided in premises, or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is an adult entertainment parlour.

Other
powers not
affected

(11) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

ss. 466a,
470a, 470b,
enacted

3. The said Act is further amended by adding thereto the following sections:

Statement
of clerk,
etc., as to
licensing or
non-
licensing

466a. For the purpose of any prosecution or proceeding under a by-law for licensing, regulating, governing, classifying or inspecting any trade, calling, business or occupation, a statement as to the licensing or non-licensing of any premises or person in respect of any trade, calling, business or occupation, purporting to be signed by the clerk of a municipality or of a regional or metropolitan municipality or by the chief administrative officer of a board of commissioners of police or of a licensing commission, is, without proof of the office or signature of the said clerk or officer, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in such prosecution or proceeding.

Offence

470a.—(1) A by-law passed under section 368a or 368b may provide that every person who contravenes the by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

Corpora-
tion,
maximum
penalty

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided therein.

Order
closing
premises

470b.—(1) Where a person is convicted of carrying on or engaging in, on, in or in respect of any premises or part thereof, a trade, calling, business or occupation, without a licence required by a by-law passed under section 368a or 368b, the court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.

Idem

(2) Where a person is convicted of a contravention of a by-law passed under section 368a or 368b, other than

SECTION 3. The new section 466a provides that the signed statement of the clerk or other chief administrative officer as to the licensing or non-licensing of any premises or person is *prima facie* proof of the facts stated therein for the purposes of any prosecution under a by-law licensing or regulating any trade, calling, business or occupation.

The new section 470a provides that by-laws licensing and regulating body-rub parlours or adult entertainment parlours may provide for a fine of up to \$10,000 in the case of an individual or \$25,000 in the case of a corporation for a contravention of the by-law. Generally, under section 466, the maximum fine that may be levied is \$1,000.

The new section 470b provides, under the circumstances set out therein, for the issue of a court order closing premises for a period of up to two years where a person has been convicted, in respect of those premises, of a contravention of a by-law licensing and regulating body-rub parlours or adult entertainment parlours. Such a closing order **must** be issued where the conviction is for carrying on the business without a licence. It **may** be issued where the conviction is for some other breach of the by-law. Following such an order, the police force having jurisdiction in the area is to bar entry to all entrances to the premises, so long as the order remains in effect. Where such a closing order has been made, a county or district court may, on application of a person who has an interest in the premises, suspend the closing order on the posting of a cash bond of at least \$10,000, such bond being liable to forfeiture if a subsequent conviction is registered. Where the court is satisfied there has been or will be a *bona fide* change in ownership of closed premises and that the new owner can ensure there will be no further contraventions of the by-law, the court may, on application therefor, discharge the closing order.

Where an appeal is taken against a closing order or against the conviction that resulted in the closing order being made, the appellant may apply for a suspension of the closing order or application may be made for a discharge of the closing order, but the fact such an appeal has been commenced does not of itself stay the closing order.

carrying on or engaging in a trade, calling, business or occupation without a licence so to do, and the court decides that the owner or other person occupying the premises or part thereof in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

(3) Upon the application by originating notice of motion of any person who has an interest in the premises ordered closed under subsection 1 or 2 and upon, Suspension of closing order

- (a) being satisfied that the use to which the premises will be put will not be in contravention of any by-law passed under section 368a or 368b; and
- (b) the posting by the applicant of a cash bond in the sum of \$10,000 or such greater sum as the court determines, for such term as the court determines, for the purpose of assuring that the premises will not be used in contravention of any such by-law,

the court may make an order suspending any order made under subsection 1 or 2 for such period and upon such conditions as are specified by the court.

(4) Where, upon application brought by originating notice of motion, the court is satisfied that, Discharge of closing order

- (a) there has been or will be a *bona fide* change in effective ownership of the premises subsequent to the commission of an offence described in subsection 1 or 2; and
- (b) the new owner satisfies the court that he can ensure that there will be no contravention of any by-law passed under section 368a or 368b,

the court may discharge an order made under subsection 1 or 2.

(5) Where an order is made under subsection 1 or 2, the police force responsible for policing in the municipality or regional or metropolitan municipality, shall bar entry to all entrances to the premises or part or parts thereof named in the order until the order has been suspended or discharged pursuant to this section. Barring of entry

Forfeiture
of bond

(6) Where an order made under subsection 1 or 2 is suspended under subsection 3 and a person is thereafter convicted of an offence for contravention of a by-law passed under section 368*a* or 368*b* in respect of the premises or part thereof referred to in the order, a judge of the county or district court may, upon summary application, order the forfeiture of the bond and the payment to the Crown of the proceeds and may order that the suspension of the order be lifted and that the order be reinstated.

No appeal

(7) No appeal lies from an order made under subsection 6.

Service of
notice

(8) The municipality or metropolitan or regional municipality which passed a by-law described in subsection 1 or 2, the contravention of which was the basis for an order made under the provisions of either such subsection, is a party to any proceedings instituted under subsection 3, 4 or 6 in respect of such order, and shall be served in accordance with the rules of the court with a copy of the notice initiating the proceedings.

Where
by-law
deemed
passed by
council

(9) For the purposes of subsection 8, where the by-law under which the conviction was made was passed by a board of commissioners of police or by a licensing commission for a municipality, or regional or metropolitan municipality, as the case may be, the by-law shall be deemed to have been passed by the council of the municipality or regional or metropolitan municipality, as the case may be.

Application
for sus-
pension or
discharge of
closing
order

(10) Where an appeal is taken from an order made under subsection 1 or 2 or from a conviction in respect of which the order was made, the appellant may apply under subsection 3 for an order suspending the order made under subsection 1 or 2 until the disposition of the matter under appeal, or any person may apply under subsection 4 for a discharge of the order, but the fact that such an appeal is commenced does not stay the order.

Term of
closing
order

(11) An order made under subsection 1 or 2 shall take effect upon the pronouncement thereof and shall remain in effect during the term of the order, except to the extent that it is suspended pursuant to subsection 3 or until it is discharged pursuant to subsection 4.

Description
of premises

(12) The description of any premises or part thereof affected by an order made under subsection 1 or 2 shall be sufficiently made in such order by reference to the municipal address of such premises.

(13) An order made under subsection 1 or 2 may be registered in the land registry office in which the title to the place described in the order is recorded. ^{Registration}

(14) In subsections 1 and 2, "court" means a "summary conviction court" or an "appeal court" as defined by *The Summary Convictions Act*, and in subsections 3 and 4, "court" means the county or district court of the county or district in which the premises are situate. ^{Interpretation} ^{R.S.O. 1970, c. 450}

4. This Act comes into force on the day it receives Royal Assent. ^{Commence-ment}
5. The short title of this Act is *The Municipal Amendment Act, 1978*. ^{Short title}

An Act to amend
The Municipal Act

1st Reading

March 30th, 1978

2nd Reading

3rd Reading

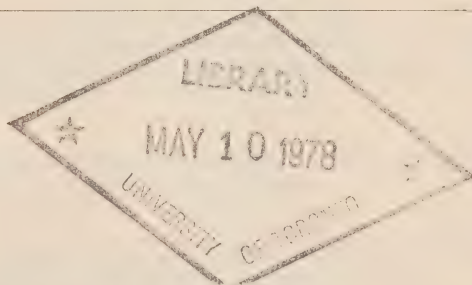
THE HON. R. McMURTRY
Attorney General

(Government Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Municipal Act

THE HON. R. MCMURTRY
Attorney General



(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL

The Bill confers power on all municipalities to pass by-laws licensing, regulating and governing adult entertainment parlours (defined broadly in the Bill as premises in which are provided goods or services designed to appeal to erotic or sexual appetites or inclinations).

Certain additional powers are also granted in respect of the authority to license and regulate body-rub parlours now found in section 368a of the Act.

In addition, the Bill raises the maximum fines that may be levied for contravention of such by-laws and establishes a procedure for the closing, for a period of up to two years, of premises in respect of which any person has been convicted of a breach of any by-law licensing and regulating body-rub parlours or adult entertainment parlours.

SECTION 1. Section 368a of the Act now reads as follows:

368a.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection 3.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.

(3) A by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted.

(4) A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

(6) For the purposes of this section,

(a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and

BILL 49

1978

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 of section 368*a* of *The Municipal Act*, s. 368*a* (2).
re-enacted being chapter 284 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 56, section 8, is repealed and the following substituted therefor:

(2) A by-law passed under this section may provide for Signs,
advertising,
etc. regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices.

- (2) Subsection 3 of the said section 368*a* is amended by s. 368*a* (3).
amended adding at the commencement thereof "Notwithstanding subsection 6 of section 246".

- (3) The said section 368*a* is amended by adding thereto the s. 368*a*,
amended following subsections:

(5*a*) A by-law passed under this section may prohibit any Age
restriction person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under the age of eighteen years to enter or remain in the body-rub parlour or any part thereof.

(5*b*) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that services described in this section are provided in premises or any part thereof, is admissible in evidence as *prima facie* Prima
facie
proof proof that the premises or part thereof is a body-rub parlour.

Other
powers not
affected

(5c) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

s. 368b,
enacted

2. The said Act is amended by adding thereto the following section:

Licensing,
regulating,
etc.,
adult enter-
tainment
parlours

368b.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof and for revoking or suspending any such licence and for limiting the number of such licences to be granted, in accordance with subsection 3.

Signs,
advertising,
etc.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting adult entertainment parlours or any class or classes thereof or for the prohibition of such signs, advertising or advertising devices.

Defined
areas,
limitation
on numbers

(3) Notwithstanding subsection 6 of section 246, a by-law passed under this section may define the area or areas of the municipality in which adult entertainment parlours or any class or classes thereof may or may not operate and may limit the number of licences to be granted in respect of adult entertainment parlours or any class or classes thereof in any such area or areas in which they are permitted.

Construc-
tion and
equipment
of premises

(4) A by-law passed under this section may provide that no premises in which an adult entertainment parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of an adult entertainment parlour, he may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Hours of
operation

(6) Notwithstanding subsection 2a of section 246 and section 355, a by-law passed under this section may regulate the hours of operation of adult entertainment parlours or any class or classes thereof.

- (b) *“body-rub parlour” includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.*

The re-enactment of subsection 2 of section 368*a* adds “any printed matter, oral or other communication or thing” to the description of advertising or promotional matters that may be regulated.

The amendment to subsection 3 of section 368*a* is to make it clear that body-rub parlours may be prohibited from operating in a defined area even if one or more are located in that area at the time the by-law comes into force.

Subsections 5*a*, 5*b* and 5*c* are added to enlarge and clarify the powers conferred in respect of licensing and regulating body-rub parlours.

SECTION 2. The new section 368*b* confers on all municipalities the power to license, regulate, govern, classify and inspect in the manner specified adult entertainment parlours as defined in the section.

(7) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under the age of eighteen years to enter or remain in the adult entertainment parlour or any part thereof.

Age
restriction

(8) By-laws passed under this section do not apply to premises or trades, callings, businesses or occupations carried on in premises licensed under *The Theatres Act* or licensed under *The Liquor Licence Act, 1975* or licensed under a by-law passed under section 368a of this Act.

Non-
application
of by-laws
R.S.O. 1970,
c. 459
1975, c. 40

(9) In this section,

Interpre-
tation

- (a) "adult entertainment parlour" means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations;
- (b) "goods" includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter;
- (c) "to provide" when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and "providing" and "provision" have corresponding meanings;
- (d) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings;
- (e) "services" includes activities, facilities, performances, exhibitions, viewings and encounters;
- (f) "services designed to appeal to erotic or sexual appetites or inclinations" includes,
 - (i) services of which a principal feature or characteristic is the nudity or partial nudity of any person,
 - (ii) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

*Prima
facie
proof*

(10) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that goods or services described in this section are provided in premises, or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is an adult entertainment parlour.

Other
powers not
affected

(11) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

ss. 466a,
470a, 470b,
enacted

3. The said Act is further amended by adding thereto the following sections:

Statement
of clerk,
etc., as to
licensing or
non-
licensing

466a. For the purpose of any prosecution or proceeding under a by-law for licensing, regulating, governing, classifying or inspecting any trade, calling, business or occupation, a statement as to the licensing or non-licensing of any premises or person in respect of any trade, calling, business or occupation, purporting to be signed by the clerk of a municipality or of a regional or metropolitan municipality or by the chief administrative officer of a board of commissioners of police or of a licensing commission, is, without proof of the office or signature of the said clerk or officer, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in such prosecution or proceeding.

Offence

470a.—(1) A by-law passed under section 368a or 368b may provide that every person who contravenes the by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

Corpora-
tion,
maximum
penalty

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided therein.

Order
closing
premises

470b.—(1) Where a person is convicted of carrying on or engaging in, on, in or in respect of any premises or part thereof, a trade, calling, business or occupation, without a licence required by a by-law passed under section 368a or 368b, the court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.

Idem

(2) Where a person is convicted of a contravention of a by-law passed under section 368a or 368b, other than

SECTION 3. The new section 466a provides that the signed statement of the clerk or other chief administrative officer as to the licensing or non-licensing of any premises or person is *prima facie* proof of the facts stated therein for the purposes of any prosecution under a by-law licensing or regulating any trade, calling, business or occupation.

The new section 470a provides that by-laws licensing and regulating body-rub parlours or adult entertainment parlours may provide for a fine of up to \$10,000 in the case of an individual or \$25,000 in the case of a corporation for a contravention of the by-law. Generally, under section 466, the maximum fine that may be levied is \$1,000.

The new section 470b provides, under the circumstances set out therein, for the issue of a court order closing premises for a period of up to two years where a person has been convicted, in respect of those premises, of a contravention of a by-law licensing and regulating body-rub parlours or adult entertainment parlours. Such a closing order **must** be issued where the conviction is for carrying on the business without a licence. It **may** be issued where the conviction is for some other breach of the by-law. Following such an order, the police force having jurisdiction in the area is to bar entry to all entrances to the premises, so long as the order remains in effect. Where such a closing order has been made, a county or district court may, on application of a person who has an interest in the premises, suspend the closing order on the posting of a cash bond of at least \$10,000, such bond being liable to forfeiture if a subsequent conviction is registered. Where the court is satisfied there has been or will be a *bona fide* change in ownership of closed premises and that the new owner can ensure there will be no further contraventions of the by-law, the court may, on application therefor, discharge the closing order.

Where an appeal is taken against a closing order or against the conviction that resulted in the closing order being made, the appellant may apply for a suspension of the closing order or application may be made for a discharge of the closing order, but the fact such an appeal has been commenced does not of itself stay the closing order.

carrying on or engaging in a trade, calling, business or occupation without a licence so to do, and the court decides that the owner or other person occupying the premises or part thereof in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

(3) Upon the application by originating notice of motion of any person who has an interest in the premises ordered closed under subsection 1 or 2 and upon, ^{Suspension of closing order}

- (a) being satisfied that the use to which the premises will be put will not be in contravention of any by-law passed under section 368a or 368b; and
- (b) the posting by the applicant of a cash bond in the sum of \$10,000 or such greater sum as the court determines, for such term as the court determines, for the purpose of assuring that the premises will not be used in contravention of any such by-law,

the court may make an order suspending any order made under subsection 1 or 2 for such period and upon such conditions as are specified by the court.

(4) Where, upon application brought by originating notice of motion, the court is satisfied that, ^{Discharge of closing order}

- (a) there has been or will be a *bona fide* change in effective ownership of the premises subsequent to the commission of an offence described in subsection 1 or 2; and
- (b) the new owner satisfies the court that he can ensure that there will be no contravention of any by-law passed under section 368a or 368b,

the court may discharge an order made under subsection 1 or 2.

(5) Where an order is made under subsection 1 or 2, the police force responsible for policing in the municipality or regional or metropolitan municipality, shall bar entry to all entrances to the premises or part or parts thereof named in the order until the order has been suspended or discharged pursuant to this section. ^{Barring of entry}

Forfeiture
of bond

(6) Where an order made under subsection 1 or 2 is suspended under subsection 3 and a person is thereafter convicted of an offence for contravention of a by-law passed under section 368a or 368b in respect of the premises or part thereof referred to in the order, a judge of the county or district court may, upon summary application, order the forfeiture of the bond and the payment to the Crown of the proceeds and may order that the suspension of the order be lifted and that the order be reinstated.

No appeal

(7) No appeal lies from an order made under subsection 6.

Service of
notice

(8) The municipality or metropolitan or regional municipality which passed a by-law described in subsection 1 or 2, the contravention of which was the basis for an order made under the provisions of either such subsection, is a party to any proceedings instituted under subsection 3, 4 or 6 in respect of such order, and shall be served in accordance with the rules of the court with a copy of the notice initiating the proceedings.

Where
by-law
deemed
passed by
council

(9) For the purposes of subsection 8, where the by-law under which the conviction was made was passed by a board of commissioners of police or by a licensing commission for a municipality, or regional or metropolitan municipality, as the case may be, the by-law shall be deemed to have been passed by the council of the municipality or regional or metropolitan municipality, as the case may be.

Application
for sus-
pension or
discharge of
closing
order

(10) Where an appeal is taken from an order made under subsection 1 or 2 or from a conviction in respect of which the order was made, the appellant may apply under subsection 3 for an order suspending the order made under subsection 1 or 2 until the disposition of the matter under appeal, or any person may apply under subsection 4 for a discharge of the order, but the fact that such an appeal is commenced does not stay the order.

Term of
closing
order

(11) An order made under subsection 1 or 2 shall take effect upon the pronouncement thereof and shall remain in effect during the term of the order, except to the extent that it is suspended pursuant to subsection 3 or until it is discharged pursuant to subsection 4.

Description
of premises

(12) The description of any premises or part thereof affected by an order made under subsection 1 or 2 shall be sufficiently made in such order by reference to the municipal address of such premises.

(13) An order made under subsection 1 or 2 may be registered in the land registry office in which the title to the place described in the order is recorded. ^{Registration}

(14) In subsections 1 and 2, “court” means a “summary conviction court” or an “appeal court” as defined by *The Summary Convictions Act*, and in subsections 3 and 4, “court” means the county or district court of the county or district in which the premises are situate. ^{Interpretation R.S.O. 1970, c. 450}

4. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
5. The short title of this Act is *The Municipal Amendment Act, 1978*. ^{Short title}

BILL 49

An Act to amend
The Municipal Act

1st Reading

March 30th, 1978

2nd Reading

April 18th, 1978

3rd Reading

THE HON. R. MCMURTRY
Attorney General

*(Reprinted as amended by the
Committee of the Whole House)*

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BILL / 49

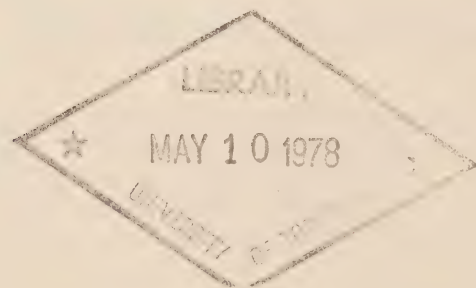
Government
Publications

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act to amend The Municipal Act

THE HON. R. MCMURTRY
Attorney General



An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 of section 368*a* of *The Municipal Act*, s. 368*a* (2), re-enacted being chapter 284 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 56, section 8, is repealed and the following substituted therefor:

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices. Signs, advertising, etc.

- (2) Subsection 3 of the said section 368*a* is amended by adding at the commencement thereof "Notwithstanding subsection 6 of section 246". s. 368*a* (3), amended

- (3) The said section 368*a* is amended by adding thereto the following subsections: s. 368*a*, amended

(5*a*) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under the age of eighteen years to enter or remain in the body-rub parlour or any part thereof. Age restriction

(5*b*) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that services described in this section are provided in premises or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is a body-rub parlour. *Prima facie* proof

Other
powers not
affected

(5c) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

s. 368b,
enacted

2. The said Act is amended by adding thereto the following section:

Licensing,
regulating,
etc.,
adult enter-
tainment
parlours

368b.—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof and for revoking or suspending any such licence and for limiting the number of such licences to be granted, in accordance with subsection 3.

Signs,
advertising,
etc.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting adult entertainment parlours or any class or classes thereof or for the prohibition of such signs, advertising or advertising devices.

Defined
areas,
limitation
on numbers

(3) Notwithstanding subsection 6 of section 246, a by-law passed under this section may define the area or areas of the municipality in which adult entertainment parlours or any class or classes thereof may or may not operate and may limit the number of licences to be granted in respect of adult entertainment parlours or any class or classes thereof in any such area or areas in which they are permitted.

Construc-
tion and
equipment
of premises

(4) A by-law passed under this section may provide that no premises in which an adult entertainment parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Entry

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of an adult entertainment parlour, he may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Hours of
operation

(6) Notwithstanding subsection 2a of section 246 and section 355, a by-law passed under this section may regulate the hours of operation of adult entertainment parlours or any class or classes thereof.

(7) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under the age of eighteen years to enter or remain in the adult entertainment parlour or any part thereof.

Age
restriction

(8) By-laws passed under this section do not apply to premises or trades, callings, businesses or occupations carried on in premises licensed under *The Theatres Act* or licensed under *The Liquor Licence Act, 1975* or licensed under a by-law passed under section 368a of this Act.

Non-
application
of by-laws
R.S.O. 1970.
c. 459
1975, c. 40

(9) In this section,

Interpre-
tation

- (a) "adult entertainment parlour" means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations;
- (b) "goods" includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter;
- (c) "to provide" when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and "providing" and "provision" have corresponding meanings;
- (d) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings;
- (e) "services" includes activities, facilities, performances, exhibitions, viewings and encounters;
- (f) "services designed to appeal to erotic or sexual appetites or inclinations" includes,
 - (i) services of which a principal feature or characteristic is the nudity or partial nudity of any person,
 - (ii) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

*Prima
facie
proof*

(10) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that goods or services described in this section are provided in premises, or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is an adult entertainment parlour.

Other
powers not
affected

(11) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

ss. 466a,
470a, 470b,
enacted

3. The said Act is further amended by adding thereto the following sections:

Statement
of clerk,
etc., as to
licensing or
non-
licensing

466a. For the purpose of any prosecution or proceeding under a by-law for licensing, regulating, governing, classifying or inspecting any trade, calling, business or occupation, a statement as to the licensing or non-licensing of any premises or person in respect of any trade, calling, business or occupation, purporting to be signed by the clerk of a municipality or of a regional or metropolitan municipality or by the chief administrative officer of a board of commissioners of police or of a licensing commission, is, without proof of the office or signature of the said clerk or officer, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in such prosecution or proceeding.

Offence

470a.—(1) A by-law passed under section 368a or 368b may provide that every person who contravenes the by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

Corpora-
tion.
maximum
penalty

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided therein.

Order
closing
premises

470b.—(1) Where a person is convicted of carrying on or engaging in, on, in or in respect of any premises or part thereof, a trade, calling, business or occupation, without a licence required by a by-law passed under section 368a or 368b, the court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.

Idem

(2) Where a person is convicted of a contravention of a by-law passed under section 368a or 368b, other than

carrying on or engaging in a trade, calling, business or occupation without a licence so to do, and the court decides that the owner or other person occupying the premises or part thereof in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

(3) Upon the application by originating notice of motion of any person who has an interest in the premises ordered closed under subsection 1 or 2 and upon, Suspension of closing order

- (a) being satisfied that the use to which the premises will be put will not be in contravention of any by-law passed under section 368*a* or 368*b*; and
- (b) the posting by the applicant of a cash bond in the sum of \$10,000 or such greater sum as the court determines, for such term as the court determines, for the purpose of assuring that the premises will not be used in contravention of any such by-law,

the court may make an order suspending any order made under subsection 1 or 2 for such period and upon such conditions as are specified by the court.

(4) Where, upon application brought by originating notice of motion, the court is satisfied that, Discharge of closing order

- (a) there has been or will be a *bona fide* change in effective ownership of the premises subsequent to the commission of an offence described in subsection 1 or 2; and
- (b) the new owner satisfies the court that he can ensure that there will be no contravention of any by-law passed under section 368*a* or 368*b*,

the court may discharge an order made under subsection 1 or 2.

(5) Where an order is made under subsection 1 or 2, the police force responsible for policing in the municipality or regional or metropolitan municipality, shall bar entry to all entrances to the premises or part or parts thereof named in the order until the order has been suspended or discharged pursuant to this section. Barring of entry

Forfeiture
of bond

(6) Where an order made under subsection 1 or 2 is suspended under subsection 3 and a person is thereafter convicted of an offence for contravention of a by-law passed under section 368*a* or 368*b* in respect of the premises or part thereof referred to in the order, a judge of the county or district court may, upon summary application, order the forfeiture of the bond and the payment to the Crown of the proceeds and may order that the suspension of the order be lifted and that the order be reinstated.

No appeal

(7) No appeal lies from an order made under subsection 6.

Service of
notice

(8) The municipality or metropolitan or regional municipality which passed a by-law described in subsection 1 or 2, the contravention of which was the basis for an order made under the provisions of either such subsection, is a party to any proceedings instituted under subsection 3, 4 or 6 in respect of such order, and shall be served in accordance with the rules of the court with a copy of the notice initiating the proceedings.

Where
by-law
deemed
passed by
council

(9) For the purposes of subsection 8, where the by-law under which the conviction was made was passed by a board of commissioners of police or by a licensing commission for a municipality, or regional or metropolitan municipality, as the case may be, the by-law shall be deemed to have been passed by the council of the municipality or regional or metropolitan municipality, as the case may be.

Application
for sus-
pension or
discharge of
closing
order

(10) Where an appeal is taken from an order made under subsection 1 or 2 or from a conviction in respect of which the order was made, the appellant may apply under subsection 3 for an order suspending the order made under subsection 1 or 2 until the disposition of the matter under appeal, or any person may apply under subsection 4 for a discharge of the order, but the fact that such an appeal is commenced does not stay the order.

Term of
closing
order

(11) An order made under subsection 1 or 2 shall take effect upon the pronouncement thereof and shall remain in effect during the term of the order, except to the extent that it is suspended pursuant to subsection 3 or until it is discharged pursuant to subsection 4.

Description
of premises

(12) The description of any premises or part thereof affected by an order made under subsection 1 or 2 shall be sufficiently made in such order by reference to the municipal address of such premises.

(13) An order made under subsection 1 or 2 may be registered in the land registry office in which the title to the place described in the order is recorded. ^{Registration}

(14) In subsections 1 and 2, "court" means a "summary conviction court" or an "appeal court" as defined by *The Summary Convictions Act*, and in subsections 3 and 4, "court" means the county or district court of the county or district in which the premises are situate. ^{Interpretation} ^{R.S.O. 1970, c. 450}

4. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
5. The short title of this Act is *The Municipal Amendment Act, 1978*. ^{Short title}

An Act to amend
The Municipal Act

1st Reading

March 30th, 1978

2nd Reading

April 18th, 1978

3rd Reading

April 25th, 1978

THE HON. R. McMURTRY
Attorney General

13
- 1356

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to amend
The Landlord and Tenant Act**

THE HON. R. MCMURTRY
Attorney General

LIBRARY

APR 11 1978

UNIVERSITY OF TORONTO

TORONTO

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EXPLANATORY NOTE

The Bill is complementary to the Bill to amend *The Municipal Act* that confers additional powers on municipalities respecting body-rub parlours and adult entertainment parlours.

Subsection 2 of section 18 of the Act as it is proposed to be amended is set out below showing underlined the words to be added:

- (2) *In every such demise there shall be deemed to be included an agreement that if the tenant or any other person is convicted of keeping a disorderly house within the meaning of the Criminal Code (Canada) on the demised premises or any part thereof, or carries on or engages in, on the demised premises or any part thereof, any trade, calling, business or occupation for which a licence is required under a by-law passed under section 368a or 368b of The Municipal Act for licensing, regulating or governing such trade, calling, business or occupation, except under the authority of a licence issued under such by-law, it is lawful for the landlord at any time thereafter to re-enter into the demised premises or any part thereof and to have again, repossess and enjoy the same as of his former estate.*

The effect is to deem that in every lease of commercial premises there is contained an agreement that if the tenant carries on in the leased premises a business requiring a licence by a by-law passed to license and regulate body-rub parlours or adult entertainment parlours, and does not have such licence, the landlord may terminate the lease and re-enter on the premises.

BILL 50

1978

**An Act to amend
The Landlord and Tenant Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 18 of *The Landlord and Tenant Act*, ^{s. 18 (2), amended} being chapter 236 of the Revised Statutes of Ontario, 1970, is amended by inserting after "thereof" in the fourth line "or carries on or engages in, on the demised premises or any part thereof, any trade, calling, business or occupation for which a licence is required under a by-law passed under section 368a or 368b of *The Municipal Act* for licensing, regulating or governing such trade, calling, business or occupation, except under the authority of a licence issued under such by-law".
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. The short title of this Act is *The Landlord and Tenant Amend- Short title
ment Act, 1978*.

An Act to amend
The Landlord and Tenant Act

1st Reading

March 30th, 1978

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Attorney General

(Government Bill)

HB
XB
- B 56

34 BILL 50

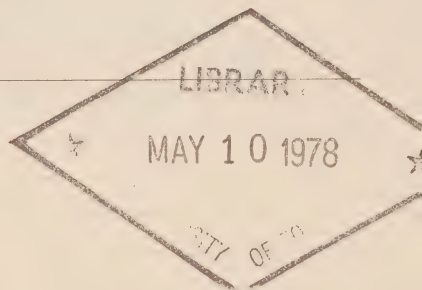
Government
Publications

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly
2

**An Act to amend
The Landlord and Tenant Act**

THE HON. R. MCMURTRY
Attorney General



TORONTO

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BILL 50

1978

**An Act to amend
The Landlord and Tenant Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 18 of *The Landlord and Tenant Act*, <sup>s. 18 (2),
amended</sup> being chapter 236 of the Revised Statutes of Ontario, 1970, is amended by inserting after "thereof" in the fourth line "or carries on or engages in, on the demised premises or any part thereof, any trade, calling, business or occupation for which a licence is required under a by-law passed under section 368a or 368b of *The Municipal Act* for licensing, regulating or governing such trade, calling, business or occupation, except under the authority of a licence issued under such by-law".
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. The short title of this Act is *The Landlord and Tenant Amendment Act, 1978*. ^{Short title}

BILL 50

An Act to amend
The Landlord and Tenant Act

1st Reading

March 30th, 1978

2nd Reading

April 25th, 1978

3rd Reading

April 25th, 1978

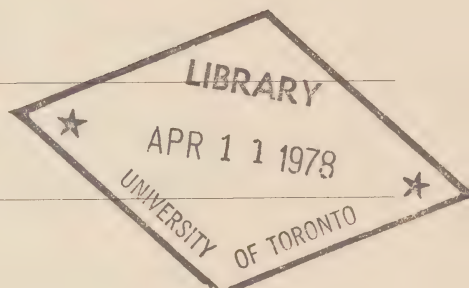
THE HON. R. MCMURTRY
Attorney General

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act respecting Occupiers' Liability

MR. LAWLOR



EXPLANATORY NOTE

The Bill replaces the common law as to an occupier's duty of care, replacing the common law distinctions between duties to invitees, licensees, trespassers and child trespassers with one common duty of care applied to the circumstances of each case.

The Bill is in the form recommended by The Uniform Law Conference of Canada.

BILL 51

1978

An Act respecting Occupiers' Liability

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "occupier" means,

- (i) a person who is in physical possession of premises, or
- (ii) a person who has responsibility for, and control over, the condition of premises, the activities conducted on those premises and the persons allowed to enter the premises,

and, for the purposes of this Act, there may be more than one occupier of the same premises;

(b) "premises" includes,

- (i) land and structures or either of them, excepting portable structures and equipment other than those described in subclause iii,
- (ii) ships and vessels,
- (iii) trailers and portable structures designed or used for a residence, business, or shelter,
- (iv) railway locomotives, railway cars, vehicles, and aircraft while not in operation.

2. Subject to subsection 4 of section 3, and sections 4 and 9, the provisions of this Act determine the care that

Application
of Act

an occupier is required to show toward persons entering on the premises in respect of dangers to them, or to their property on the premises, or to the property on the premises of persons who have not themselves entered on the premises, that are due to the state of the premises, or to anything done or omitted to be done on the premises, and for which he is in law responsible.

Occupiers'
duty of
care

3.—(1) An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that any person, and his property on the premises, and any property on the premises of a person, whether or not that person himself enters on the premises, will be reasonably safe in using the premises.

Idem

(2) The duty of care referred to in subsection 1 applies in relation to,

- (a) the condition of the premises; or
- (b) activities on the premises; or
- (c) the conduct of third parties on the premises.

Where no
duty of
care

(3) Notwithstanding subsection 1, an occupier has no duty of care to a person in respect of risks willingly accepted by that person as his own risks.

Higher
standard
of care
preserved

(4) Nothing in this section relieves an occupier of premises of a duty to exercise, in a particular case, a higher standard of care which, in that case, is incumbent upon him by virtue of an enactment or rule of law imposing special standards of care on particular classes of persons.

Contracting
out

4.—(1) Subject to subsections 2, 3 and 4, where an occupier is permitted by law to extend, restrict, modify, or exclude his duty of care to any person by express agreement, or by express stipulation or notice, the occupier shall take reasonable steps to bring such extension, restriction, modification, or exclusion to the attention of that person.

Idem

(2) Subsection 1 does not apply to a person,

- (a) who is not privy to the express agreement;
- (b) who is empowered or permitted to enter or use the premises without the consent or permission of the occupier.

(3) Where an occupier is bound by contract to permit persons who are not privy to the contract to enter or use the premises, the duty of care of the occupier to such persons shall, notwithstanding anything to the contrary in that contract, not be restricted, modified or excluded thereby. Duty owed to persons not privy to contract

(4) This section applies to express contracts entered into before or after the commencement of this section. Applicable to express contracts

5.—(1) Notwithstanding subsection 1 of section 3, where damage is caused by the negligence of an independent contractor engaged by the occupier, the occupier is not on that account liable under this Act if, in all the circumstances, Independent contractors

- (a) the occupier exercised reasonable care in the selection and supervision of the independent contractor; and
- (b) it was reasonable that the work that the independent contractor was engaged to do should have been undertaken.

(2) Subsection 1 shall not be construed as restricting or excluding the liability of an occupier for the negligence of his independent contractor imposed by any other Act. Idem

(3) Where there is damage under the circumstances set out in subsection 1, and there is more than one occupier of the premises, each occupier is entitled to rely on the provisions of subsection 1. Idem

6.—(1) Where premises are occupied or used by virtue of a tenancy under which a landlord is responsible for the maintenance or repair of the premises, it is the duty of the landlord to show toward any person who, or whose property, may be on the premises the same care in respect of risks arising from any failure on his part in carrying out his responsibility, as is required by virtue of this Act to be shown by an occupier of premises toward persons entering on or using them. Landlord and tenant relationship

(2) Where premises are occupied by virtue of a sub-tenancy, subsection 1 applies to any landlord who is responsible for the maintenance or repair of the premises comprised in the sub-tenancy. Sub-tenancy

(3) For the purposes of this section, a landlord shall not be deemed to be in default in his duty under subsection 1 unless his default is such as to be actionable at the suit of the occupier. Idem

Other duties
preserved

(4) Nothing in this section shall be construed as relieving a landlord of any duty he may have apart from this section.

Idem

(5) For the purposes of this section, obligations imposed by any enactment in respect of a tenancy shall be deemed to be imposed by the tenancy, and “tenancy” includes a statutory tenancy, an implied tenancy, and any contract conferring the right of occupation, and “landlord” shall be construed accordingly.

Applica-
tion of
section

(6) This section applies to tenancies created before or after the commencement of this section.

Application of
R.S.O. 1970,
c. 296

7. *The Negligence Act* applies to this Act.

Crown
bound

R.S.O. 1970,
c. 365

8.—(1) Except as otherwise provided in subsection 2, the Crown is bound by this Act, and *The Proceedings Against the Crown Act* applies.

Idem

(2) Notwithstanding subsection 1, this Act does not apply to the Crown or to a municipality where the Crown or the municipality is the occupier of a public highway or public road.

Not to
affect
certain
relation-
ships

9. This Act does not apply to or affect,

(a) the liability of an employer in respect of his duties to his employee; or

(b) the liability of any person by virtue of a contract for the hire of, or for the carriage for reward of persons or property in, any vehicle, vessel, aircraft, or other means of transport; or

R.S.O. 1970,
c. 223

(c) the liability of any person under *The Innkeepers Act*; or

(d) the liability of any person by virtue of a contract of bailment.

No retro-
activity

10. Subject to subsection 3 of section 4 and subsection 6 of section 6, this Act applies only in respect of a cause of action arising after this Act comes into force.

Commence-
ment

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. The short title of this Act is *The Occupiers' Liability Act, 1978*.

BILL 51

An Act respecting Occupiers' Liability

1st Reading

March 30th, 1978

2nd Reading

3rd Reading

MR. LAWLOR

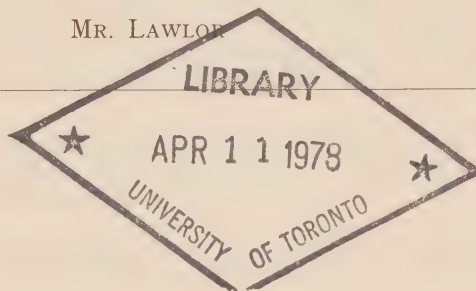
(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly
2

An Act to provide for Class Actions

MR. LAWLER



TORONTO

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EXPLANATORY NOTE

The purpose of this Bill is to provide a statutory procedure whereby one or more persons may sue a defendant in the form of a class action.

The Bill is designed to achieve this purpose by permitting a person who wishes to sue on behalf of a class to apply for a court order authorizing the class action. Once the order is obtained, the action proceeds as a class action, and the final judgment binds all members of the class, except those who have been excluded, as well as the parties to the action.

BILL 52

1978

An Act to provide for Class Actions

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Court" means the Supreme Court of Ontario. ^{Interpretation}

2.—(1) Where a person has a cause of action involving questions of law or fact that are common to a class of persons, he may commence the action as representative party on behalf of the class. ^{Class action}

(2) An action under subsection 1 shall not be maintained as a class action unless the person or persons suing as representative party has obtained an order of the Court permitting the action to proceed as a class action. ^{Order required}

3.—(1) A representative party may apply to the Court for an order referred to in section 2, and the Court may make the order where it is satisfied that, ^{Where order to be granted}

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court shall not refuse to make an order under this section on the ground only that, ^{Where order not to be denied}

- (a) the relief claimed in the action includes a claim for damages;
- (b) the relief claimed in the action arises out of or relates to separate contracts or transactions made with or entered into between members of the class and the defendant; or
- (c) any damages claimed for members of the class will require individual action.

Content
of order

(3) An order under subsection 1 shall,

- (a) define the class on whose behalf the claim is brought;
- (b) describe briefly the nature of the claim made and of the relief sought;
- (c) state the questions of law or fact that are common to the class; and
- (d) specify a date before which members of the class may exclude themselves from the class.

Variation
of order

(4) An order made under this section may be varied from time to time or rescinded by the Court if it thinks it fit and just to do so before judgment in the action.

Notice of
class action

4.—(1) Where an order is made under section 3, the Court may direct that notice in manner and form satisfactory to the Court be given to the members of the class or any of them advising them of the proceedings and of the date before which members of the class may exclude themselves from the class.

Statement
of desire
for exclu-
sion from
the class

(2) Where a person has notice that he is a member of a class on behalf of which a representative party is suing, he shall be excluded from the class by filing with the Court a statement of his desire to be excluded, in writing signed by him prior to the date specified in the order under section 3, and may be excluded, in the discretion of the Court, where the statement is filed subsequent to the date specified in the order and prior to judgment.

Judgment

5.—(1) The judgment in a class action constitutes a final judgment between each member of the class who was not excluded under section 4 and each person against whom the class action was taken in respect of those matters set out in the order under section 3.

(2) Notwithstanding anything in subsection 1, the Court ^{Idem} may provide in the judgment for subsequent determination of the amount of compensation for loss or damage suffered by members of the class or any other issues.

6. An action maintained as a class action shall not be discontinued, settled or dismissed for want of prosecution <sup>Discontinu-
ance, settle-
ment, etc.</sup> without the approval of the Court, and, if the Court determines that the interests of the class may be substantially affected by such discontinuance, settlement or dismissal, the Court may direct that notice in manner, form and content satisfactory to the Court shall be given.

7. This Act comes into force on the day it receives Royal <sup>Commence-
ment</sup> Assent.

8. The short title of this Act is *The Class Actions Act, 1978*. ^{Short title}

BILL 52

An Act to provide
for Class Actions

1st Reading

March 30th, 1978

2nd Reading

3rd Reading

MR. LAWLOR

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Signature of Member

An Act to provide for Freedom of Information

MR. LAWLOR



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to provide members of the public with access to Government information. The Bill is designed to allow maximum accessibility to Government documents while, at the same time, recognizing that it is in the public interest that certain types of information not be disclosed. Where a disagreement arises as to whether or not certain information should be disclosed, the Bill provides a mechanism for resolving the dispute.

BILL 53

1978

An Act to provide for Freedom of Information

WHEREAS, for the furtherance of democratic principles Preamble
and practices in the Province of Ontario, it is right
and expedient that the fullest and most objective dis-
closure of government programs, policies, activities and
operations be openly declared and made available;

Therefore, Her Majesty, by and with the advice and
consent of the Legislative Assembly of the Province of
Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “governmental organization” means the Executive Council, a ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof;
- (b) “public document” means any document, record, book, paper, report, order, decision, map photograph, film, card, tape, recording, minutes, statistical compilation or part thereof of form or character prepared or received by a governmental organization as a result of the spending of public moneys, and includes,
 - (i) final opinions, including concurring and dissenting opinions made in the adjudication of cases,
 - (ii) statements of policy and interpretations of policy,
 - (iii) administrative staff manuals and instructions of staff which affect members of the public,
 - (iv) any account, voucher, tender or contract dealing with receipt or expenditure of public funds.

Public access
to documents

2. Subject to section 3, any person may request in writing from a governmental organization any public document or, where the request reasonably identifies a subject-matter, a list of public documents affecting the subject-matter and, upon receiving the request, the governmental organization shall make available as soon as possible such document or list of documents for examination or copying.

Exceptions

3.—(1) The following public documents are exempt from the provisions of section 2:

1. Documents, the release of which would be detrimental to the security of Ontario or Canada.
2. Documents in respect of international relations, the release of which would be detrimental to the conduct of Canada's foreign relations or Ontario's relations with other countries.
3. Documents, the release of which would be detrimental to the conduct of federal-provincial relations or the relations of the provinces with one another.
4. Documents, the release of which would constitute a clearly unwarranted invasion of personal privacy.
5. Documents relating to negotiations leading up to a contract unless the contract has been executed or the negotiations have been concluded.
6. Documents relating to policy decisions under consideration but not yet finalized.
7. Documents relating to an investigation or inquiry in the administration of justice, but does not include legal opinions or advice prepared or received by a governmental organization unless the document containing the legal opinion or advice is expressly designated as privileged by the Executive Council or the Attorney General.
8. Documents that are excluded from disclosure by statute.
9. Minutes of the Executive Council and its committees.
10. Any proceedings before a court of justice or a judicial inquiry.

11. Any matter which may be exempted by the regulations.

(2) Any regulation made under this Act exempting a public document from disclosure does not have effect until it has been referred to the Standing Committee on Regulations and reported by the Committee to the Legislative Assembly.

4.—(1) Where a person makes a request under section 2 and receives no response from the governmental organization within a reasonable time or, for any reason, considers the response inadequate, the person may apply to the Ombudsman, under *The Ombudsman Act, 1975*, for a review. 1975, c. 42

(2) The provisions of *The Ombudsman Act, 1975* in respect of the investigation of complaints apply to an application under this section *mutatis mutandis*.

(3) Where the Ombudsman is of the opinion that it is in the public interest that a document be released, a list produced or further disclosure provided, in addition to his powers under *The Ombudsman Act, 1975*, the Ombudsman may direct the governmental organization to make such compliance with the request as he thinks fit.

5.—(1) After a decision is made by the Ombudsman under section 4, the person making the request or the governmental organization to which the request is addressed may apply to a judge of the High Court for an order determining whether or not a public document, list or further disclosure should be provided.

(2) Where a governmental organization claims an exemption under section 3, it may file a statement of particulars in a sealed envelope with the court in support of its claim.

(3) At any stage in the proceedings, the judge may order that the statement of particulars be resealed or disclosed in whole or in part to the other party or otherwise dealt with as he thinks fit.

6. In any proceeding before the Ombudsman or a court under this Act, the Crown shall pay all of the costs of a person making a request under section 2, unless, in the opinion of the Ombudsman or the court, the request is made for a frivolous or vexatious purpose.

Release of
documents by
Lieutenant
Governor
in Council

7. Notwithstanding section 3, the Lieutenant Governor in Council may order the release of a public document which is exempt where the release of the document is in the public interest.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) exempting any document or class of document from the application of this Act;
- (b) prescribing the times and places at which public documents are available for examination or copying;
- (c) prescribing the terms and conditions under which public documents or lists of public documents are released;
- (d) prescribing the costs to be paid for the release or copying of a public document;
- (e) prescribing forms and providing for their use;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is *The Freedom of Information Act, 1978*.

BILL 53

An Act to provide for
Freedom of Information

1st Reading

March 30th, 1978

2nd Reading

3rd Reading

MR. LAWLOR

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act respecting Predator Control in Ontario

MR. RIDDELL



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to authorize the establishment of local predator control committees throughout Ontario to develop methods and procedures to protect live stock and poultry from destruction by predators. A committee is established for each predator control area designated by the Minister, and, the committee, within one year of its establishment, must prepare a predator control plan for approval by the Minister. The Bill requires every predator control committee to regularly review the predator control plan and to report to the Minister on an annual basis concerning whether the plan has been effective in reducing the level of predator activity.

BILL 54

1978

An Act respecting Predator Control in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Minister" means the Minister of Agriculture and Food;
- (b) "predator" means a wolf of the species *Canis lupus* L. or *Canis latrans* Say or any cross breed thereof or a dog.

2.—(1) The Minister may, by order, designate areas of land in Ontario as predator control areas.

Predator
control
areas

(2) Each area of land designated by the Minister under subsection 1 shall be composed predominantly of land that is used for agricultural purposes.

Agricultural
land

(3) The Minister shall establish a predator control committee for each designated predator control area, which committee shall be composed of members appointed by the Minister as follows:

Predator
control
committee

1. One representative of the Ministry of Agriculture and Food.
2. One representative of the Ministry of Natural Resources.
3. One representative of each local municipality situated in the predator control area.
4. One representative of the live stock and poultry producers carrying on business in the predator control area.

- Chairman (4) The chairman of a predator control committee shall be the member appointed as the representative from the Ministry of Agriculture and Food.
- Predator control plan **3.**—(1) Every predator control committee shall, within one year from the day of its establishment, prepare and file with the Minister a predator control plan setting forth methods and procedures designed to protect live stock and poultry from destruction by predators in the predator control area.
- Review (2) No predator control committee shall make any payment in respect of predator control until a predator control plan for the area has been approved by the Minister.
- Amendment (3) Every predator control committee shall make an annual review of the predator control plan and may amend the plan from time to time with the approval of the Minister.
- Annual report **4.** Every predator control committee shall submit a report to the Minister after the end of each calendar year concerning predator control methods and procedures in the predator control area and such report shall include a report on the level and nature of current predator activity, the amount of compensation paid by the committee, if any, during the preceding twelve month period, and an assessment of the effectiveness of the predator control plan in protecting live stock and poultry.
- Commencement **5.** This Act comes into force on the day it receives Royal Assent.
- Short title **6.** The short title of this Act is *The Predator Control Act, 1978*.

BILL 54

An Act respecting
Predator Control in Ontario

1st Reading

April 4th, 1978

2nd Reading

3rd Reading

MR. RIDDELL

(Private Member's Bill)

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- B56

31

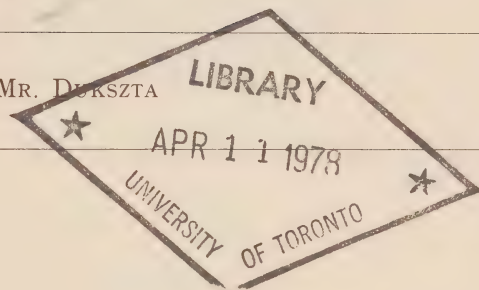
BILL/55

Government
Publications
Private Member's Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Education Act, 1974

Legislative Assembly
MR. DERSZTA



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for heritage language instruction in Ontario. The Bill sets forth a procedure for the establishment of heritage language programs in order that a heritage language may be taught as a subject of instruction or as a language of instruction. When a school board decides to institute a heritage language program, the Bill requires that a local heritage language advisory committee be established to provide continuing advice to the board concerning the nature and content of the heritage language program. In the case of a dispute between the board and the advisory committee, the Bill provides that the matter in dispute may be referred to the Minister for determination.

BILL 55

1978

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *f* of subsection 1 of section 229 of *The Education Act*, s. 229 (1) (*f*),
1974, being chapter 109, is repealed and the following substituted therefor:
 - (*f*) in instruction and in all communications with language
pupils in regard to discipline and the management of instruction
of the school, to use English or another language
that will be understood by the pupil, except in
respect of a language that is being taught as one
of the subjects in the course of study.
2. The said Act is amended by adding thereto the following Part:

Part XI-A
(ss. 271a-271f),
enacted

PART XI-A

HERITAGE LANGUAGE INSTRUCTION

271a. In this Part,

Interpre-
tation

- (a) "board" means a board of education, public school board, secondary school board or separate school board;
- (b) "board area" means the area in which a board has jurisdiction;
- (c) "heritage language" means a language other than English or French;
- (d) "student" means any person who has a right to attend a school in a board area in which the person is qualified to be a resident pupil.

Purpose

271*b*. The purpose of this Part is,

- (*a*) to provide students with the opportunity to study a heritage language as a subject of instruction in order to preserve or establish links with a heritage language community; and
- (*b*) to provide students with instruction in a heritage language as a means of transition to learning and working in the English or French language.

Heritage
language
classes

271*c*.—(1) A board may establish and maintain classes for the purpose of providing a heritage language as a subject of instruction or as a language of instruction for the purpose of transition to English or French.

Heritage
language
as a
subject of
instruction

(2) Where, after the first school day in September and on or before the first day of April next following, written evidence is presented to a board that a number of students resident in the board area and directly related to a heritage language community has elected to be taught the heritage language as a subject of instruction, the board shall forthwith determine whether students can be assembled for this purpose in one or more classes of twenty or more and, where the board determines that such students can be so assembled, it shall provide the language as a subject of instruction in such classes or groups.

When
classes
to be
held

(3) The board shall provide the heritage language as a curriculum subject for academic credit during the regular school day where the board determines that one or more classes or groups of twenty or more students can be assembled for the purpose and the board may establish such other classes at such times and locations as the board considers necessary to meet the needs of the heritage language community.

Admission
to classes

(4) Upon determining that a heritage language shall be taught as a subject of instruction, a board may permit students who have no direct relationship to the heritage language community to receive instruction in the language.

French.
English
as
heritage
languages

(5) For the purposes of this section, French shall be deemed to be a heritage language except where the number of English-speaking students of a board is fewer than the number of students of the board for whom French is the language of instruction, in which case English shall be deemed to be a heritage language.

271*d*.—(1) Where, after the first school day in September and on or before the first day of April next following, written evidence is presented to a board that a number of students resident in the board area whose mother tongue is a heritage language has elected to be taught in the heritage language as a language of instruction for the purpose of transition to English or French, the board shall forthwith determine whether students can be assembled for this purpose in one or more classes or groups of twenty or more and, where the board determines that such students can be so assembled, it shall provide the language as a language of instruction in such classes or groups. Transition
classes

(2) English or French shall be a subject of instruction in all grades in which a heritage language is a language of instruction. Instruction
in English
or French

271*e*.—(1) Where a board establishes, extends or decides to establish or extend a class, group or program in which a heritage language is a subject of instruction or a language of instruction, the board shall, within two months of the establishment, extension or decision to establish or extend by resolution, establish an advisory committee and provide for the holding of election of members thereof. Advisory
committee

(2) No person is eligible to be a member of an advisory committee unless the heritage language in respect of which the committee is established is the mother tongue of that person. Membership
on
advisory
committee

(3) The advisory committee is responsible for developing proposals designed to meet the educational and cultural needs of students and community members who speak or wish to study the heritage language and for such purpose may make recommendations in respect of, Recommen-
dations

- (a) the establishment, operation and management of heritage language instructional programs;
- (b) the use of the heritage language and of the English and French languages in heritage language instructional programs;
- (c) the recruitment and appointment of the required teaching, supervisory and administrative personnel;
- (d) the establishment of the course of study and the use of textbooks;
- (e) the establishment of attendance areas for heritage language instructional programs;

- (f) the provision of transportation for pupils;
- (g) the entering into agreements with other boards in respect of the provision of instruction in the heritage language and supervising and consultative services;
- (h) the development and establishment of adult education programs;
- (i) the use of any facility and means necessary to meet the educational and cultural needs of the heritage language community;
- (j) the provision of summer school programs; and
- (k) any other matter pertaining to heritage language education.

Committee
report
to board

(4) The committee shall report at each regular meeting of the board.

Board to
seek
advice of
committee

(5) The board shall seek the advice of the committee on all matters affecting the establishment, program, administration and termination of heritage language classes, groups or programs before any final decision regarding such matters is taken by the board.

Consider-
ation of
recommen-
dations
by board

(6) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal.

Referral
to
Minister

271f.—(1) Upon receipt of a refusal and the reasons therefor under subsection 5, the committee may, by motion, refer the matter to the Minister, in which case it shall send to the Minister and to the board copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal.

Deferral
of action
by board

(2) When a matter is referred to the Minister, the board concerned shall defer action thereon until the matter has been resolved.

Written
reasons

(3) The Minister shall provide written reasons to the committee and the board in respect of a decision made on a matter referred to the Minister by the committee.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Education Amendment Act*, Short title
1978.

BILL 55

An Act to amend
The Education Act, 1974

1st Reading

April 4th, 1978

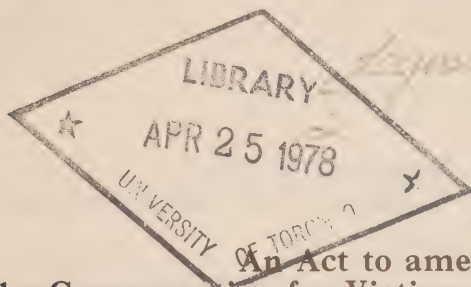
2nd Reading

3rd Reading

MR. DUKSZTA

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978



**An Act to amend
The Compensation for Victims of Crime Act, 1971**

MR. KENNEDY

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to extend the eligibility for compensation under *The Compensation for Victims of Crime Act, 1971* to persons who have been imprisoned for an offence and whose convictions are subsequently quashed.

The circumstances under which such a person would be eligible for compensation are set out in the new subsection 2 of section 5. The person must have been convicted and imprisoned after having pleaded not guilty to the offence with which he was charged. Under the new subsection 2 of section 6 an application for compensation can be made when the decision quashing the conviction becomes final.

As set out in the new subsection 3 of section 7, the victim would receive compensation for expenses actually incurred and pecuniary losses resulting from the imprisonment.

In determining compensation, the Board, as set out in subsection 2 of section 17, must consider all of the circumstances surrounding the charge, conviction and quashing of the conviction including the behaviour of the victim.

Under the new subsection 6 of section 19, the Board may award a lump sum payment of up to \$15,000 to the victim.

Other amendments contained in the Bill are complementary to the above-noted amendments.

BILL 56

1978

An Act to amend The Compensation for Victims of Crime Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *g* of subsection 1 of section 1 of *The Compensation for Victims of Crime Act, 1971*, being chapter 51, is repealed and the following substituted therefor: s. 1 (1) (g),
re-enacted

(g) “victim” means a person injured or killed in the circumstances set out in subsection 1 of section 5 or a person who is convicted of an offence and committed to prison and whose conviction is subsequently quashed in the circumstances set out in subsection 2 of section 5.

2. Section 5 of the said Act is amended by adding thereto the following subsection: s. 5,
amended

(2) Where a person is charged in Ontario with an offence under a Statute of Canada or Ontario, and having pleaded not guilty, is convicted and committed to prison and the conviction is subsequently quashed, the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to the victim. Compensation to
imprisoned
persons

- 3.—(1) Section 6 of the said Act is amended by inserting after “compensation” in the first line “under subsection 1 of section 5”. s. 6,
amended

- (2) The said section 6 is further amended by adding thereto the following subsections: s. 6,
amended

(2) An application for compensation under subsection 2 of section 5 shall not be made until the date on which the decision or order quashing the conviction becomes final and shall be made within one year of that date. Idem

Final
decision

(3) For the purposes of subsection 2, a decision or order quashing a conviction becomes final when the guilt or innocence of the victim has been finally determined and no further right of appeal or right to apply for leave to appeal remains.

s. 7 (1),
amended

4.—(1) Subsection 1 of section 7 of the said Act is amended by adding at the commencement thereof “In an application under subsection 1 of section 5”.

s. 7,
amended

(2) The said section 7 is amended by adding thereto the following subsection:

Idem

(3) In an application under subsection 2 of section 5, compensation may be awarded for,

(a) expenses actually and reasonably incurred as a result of the victim's imprisonment; and

(b) pecuniary loss incurred by the victim as a result of the victim's imprisonment during the period of imprisonment.

s. 17,
re-enacted

5. Section 17 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 34, section 1, is repealed and the following substituted therefor:

Considera-
tions of
Board

17.—(1) In determining whether to make an order for compensation under subsection 1 of section 5 and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death.

Idem

(2) In determining whether to make an order for compensation under subsection 2 of section 5 and the amount thereof, the Board shall have regard to all relevant circumstances surrounding the charge, conviction and quashing of the conviction including the behaviour of the victim.

Idem

(3) The Board may, in its discretion, refuse to make an order for compensation under subsection 1 of section 5 where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency.

Idem

(4) In assessing pecuniary loss, the Board shall take into consideration any benefit, compensation or indemnity payable to the applicant from any source.

6. Section 19 of the said Act is amended by adding thereto the following subsection: s. 19,
amended

(6) The amount awarded by the Board to be paid in respect of an application under subsection 2 of section 5 shall not exceed \$15,000 and the amount awarded shall be paid in a lump sum. Maximum
awards for
victim in
application
under
s. 5 (2)

7. This Act comes into force on the day it receives Royal Assent. Commence-
ment
8. The short title of this Act is *The Compensation for Victims of Crime Amendment Act, 1978*. Short title

BILL 56

An Act to amend
The Compensation for Victims
of Crime Act, 1971

1st Reading

April 6th, 1978

2nd Reading

3rd Reading

MR. KENNEDY

(Private Member's Bill)

356

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act respecting Proceedings on
behalf of Children who are Maltreated**



MR. ELGIE

EXPLANATORY NOTE

The purpose of the Bill is to specifically authorize the Official Guardian to act as next friend and to bring proceedings on behalf of a child who has been physically or emotionally maltreated by his or her parent or some other person. The Bill places a duty upon the Official Guardian to bring proceedings to obtain compensation for the child unless the Official Guardian decides that, in the circumstances, it is not in the best interests of the child.

The Bill also requires that a children's aid society or Crown attorney shall report information to the Official Guardian concerning possible cases of physical or emotional maltreatment where the society or Crown attorney has reasonable and probable cause to believe that maltreatment has occurred.

The Bill substitutes the concept of physical or emotional maltreatment in place of the concept of ill-treatment in *The Child Welfare Act*.

BILL 57

1978

An Act respecting Proceedings on behalf of Children who are Maltreated

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: R.S.O. 1970,
c. 228,
s. 107a,
enacted

107a. Where the Official Guardian is of the opinion that an infant has a cause of action against one or more persons or another right of recovery by reason of physical or emotional maltreatment inflicted upon the infant, the Official Guardian shall institute and conduct a proceeding as next friend for the recovery of damages or other compensation in respect of injuries sustained by the infant unless, in the circumstances, such a proceeding would not be in the best interests of the infant. Maltreated
children

- 2.—(1) Subsection 1 of section 40 of *The Child Welfare Act*, being chapter 64 of the Revised Statutes of Ontario, 1970, is amended by striking out “ill-treatment” in the third line and inserting in lieu thereof “physical or emotional maltreatment”. R.S.O. 1970,
c. 64, s. 40 (1),
amended

- (2) Section 41 of the said Act is repealed and the following substituted therefor: s. 41,
re-enacted

41.—(1) Every person having information of the abandonment, desertion, physical or emotional maltreatment or need for protection of a child shall report the information to a children’s aid society or Crown attorney. Reporting
maltreatment
of child

(2) Subsection 1 applies notwithstanding that the information is confidential or privileged, and no action shall be instituted against the informant unless the giving of the information is done maliciously or without reasonable and probable cause. Privilege
abolished

Report to
Official
Guardian

(3) A children's aid society or Crown attorney that has reasonable and probable cause to believe that a child has been physically or emotionally maltreated shall report the information to the Official Guardian.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Children's Rights Act, 1978*.

An Act respecting Proceedings on
behalf of Children who are Maltreated

1st Reading

April 10th, 1978

2nd Reading

3rd Reading

MR. ELGIE

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

**An Act to relieve Persons from Liability
in respect of voluntary Emergency
Medical and First Aid Services**



MR. HAGGERTY

EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

BILL 58

1978

**An Act to relieve Persons from Liability
in respect of voluntary Emergency
Medical and First Aid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "physician" means a medical practitioner licensed under Part III of *The Health Disciplines Act, 1974*; 1974, c. 47
- (b) "registered nurse" means a person who is the holder of a certificate as a registered nurse issued under Part IV of *The Health Disciplines Act, 1974*.

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other emergency,

Relief
from
liability
for
damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and the services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause *a* voluntarily renders emergency first aid assistance and the assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his or her part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by the gross negligence of the physician, registered nurse or other person.

Act does
not apply
to normal
medical
services

3. Nothing in section 2 shall be construed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Good Samaritan Act, 1978*.

BILL 58

An Act to relieve Persons from Liability in
respect of voluntary Emergency Medical
and First Aid Services

1st Reading

April 10th, 1978

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

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BILL 59

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to reform the Law respecting
Property Rights and Support Obligations between
Married Persons and in other Family Relationships**

THE HON. R. McMURTRY
Attorney General



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- 78. Repeal of *Family Law Reform Act, 1975*, in part
- 79. Repeal of *Fatal Accidents Act*
- 80. Amendments to *Infants Act*
- 81. Amendment to *Judicature Act*
- 82. Repeal of *Married Women's Property Act*
- 83. Repeal of *Matrimonial Causes Act* in part
- 84. Repeal of *Parents' Maintenance Act*
- 85. Amendment to *Pension Benefits Act*
- 86. Amendment to *Provincial Courts Act*
- 87. Amendment to *Reciprocal Enforcement of Maintenance Orders Act*
- 88. Amendment to *Statute of Frauds*
- 89. Application of ss. 69, 73, 74, 76, 79, 80, 82, 83 and 84

GENERAL

- 90. Regulations
- 91. Effective date of Act
- 92. Short title

EXPLANATORY NOTES

SECTION 1. The definition of "child" allows children born outside marriage and persons treated as a child of the family to claim support from their parents under Part II or to benefit from an order respecting property under section 5 (1) (*d*).

The definition of "court" permits claims under Parts I to IV to be brought in the new Unified Family Court, a provincial court (family division), a county or district court or the Supreme Court.

The definition of "parent" corresponds with the meaning of "child".

The definition of "spouse" ensures that parties to a marriage subsequently found to be void are covered by this Act.

BILL 59

1978

**An Act to reform the Law respecting
Property Rights and Support Obligations
between Married Persons and in other
Family Relationships**

WHEREAS, it is desirable to encourage and strengthen Preamble
the role of the family in society;

AND WHEREAS for that purpose it is necessary to recognize the equal position of spouses as individuals within marriage and to recognize marriage as a form of partnership;

AND WHEREAS in support of such recognition it is necessary to provide in law for the orderly and equitable settlement of the affairs of the spouses upon the breakdown of the partnership; and to provide for other mutual obligations in family relationships:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "child" means a child born within or outside marriage, subject to sections 83 and 85 of *The Child Welfare Act* (which relate to the effect of adoption), and includes a person whom the parent has demonstrated a settled intention to treat as a child of his or her family, but does not include a child placed in a foster home for consideration by a person having lawful custody; R.S.O. 1970,
c. 64
- (b) "cohabit" means to live together in a conjugal relationship, whether within or outside marriage;
- (c) "court" means a provincial court (family division), the Unified Family Court, a county or district court or the Supreme Court;

(d) “domestic contract” means a domestic contract as defined in Part IV;

(e) “parent” means the father or mother of a child, and includes a person who has demonstrated a settled intention to treat a child as a child of his or her family, but does not include a person in whose home a child was placed as a foster child for consideration by a person having lawful custody;

(f) “spouse” means either of a man and woman who,

(i) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity,

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year.

Combining of
application

2.—(1) Where, in an application under any provision of this Act, it appears to the court that for the appropriate determination of the affairs of the spouses it is necessary or desirable to have other matters first or simultaneously determined, the court may direct that the application stand over until such other applications are brought or determined as the court considers appropriate.

All
proceedings
in one court

(2) Except as otherwise provided, where an application is made to a court under this Act, no person who is a party to the proceeding shall make an application under this Act to any other court, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

Applications

(3) An application under this Act may be made in the manner prescribed by the rules of the court or in another proceeding.

Capacity
of minors

(4) A minor who is a spouse has capacity to commence, conduct and defend a proceeding under this Act without the intervention of a next friend or guardian *ad litem* and give any consent required or authorized by this Act.

Extension
of times

(5) The court may extend the time for bringing an application under this Act where the court is satisfied that,

SECTION 2. Subsection 1 permits a court to adjourn the hearing of a claim under this Act where it finds that all of the issues necessary for it to make a proper decision have not been determined. For example, an application to divide property could be adjourned to allow the bringing of a support application, and the two applications could be heard together.

Subsection 2 requires all claims under this Act between the same parties to be brought in the same court, and allows the transfer of an application to another court if the first court does not have jurisdiction to deal with all the issues.

Subsection 5 allows a court to permit an application after the time period prescribed by the Act expires.

Subsection 7 allows the court to make orders on the consent of the parties, without the need for a hearing.

Subsection 9 provides that a domestic contract (marriage contract, cohabitation agreement or separation agreement) made under Part IV prevails over the provisions of Parts I to III, subject to the limitation of sections 18 (3) and 55.

SECTION 3. The provincial court (family division) does not have jurisdiction under this Part.

The definition of "family assets" includes property held for the benefit of a spouse by a corporation, trust, power of appointment or revocable gift. The definition does not include land around the matrimonial home where that land is used for farming or other business purposes and is not reasonably necessary to the use of the home as a residence. The definition also excludes any property specified in a domestic contract as not being a family asset.

- (a) there are *prima facie* grounds for relief;
- (b) the delay has been incurred in good faith and has resulted from circumstances not reasonably within the control of the applicant; and
- (c) no substantial prejudice or hardship will result to any person affected by reason of the delay.

(6) The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court may by order prohibit the publication of any matter connected with the application or given in evidence at the hearing. Closed hearings

(7) Upon the consent of the parties in an application under this Act, the court may make any order that the court is otherwise empowered to make by this Act. Consent orders

(8) Any matter provided for in a domestic contract may be incorporated in an order made under this Act. Incorporation of contract in order

(9) Where a domestic contract makes provision in respect of a matter that is provided for in this Act, the contract prevails except as otherwise provided in this Act. Act subject to contracts

PART I

FAMILY PROPERTY

3. In this Part, Interpretation

- (a) “court” means a court as defined in section 1 but does not include a provincial court (family division);
- (b) “family assets” means a matrimonial home as determined under Part III and property owned by one spouse or both spouses and ordinarily used or enjoyed by both spouses or one or more of their children while the spouses are residing together for shelter or transportation or for household, educational, recreational, social or aesthetic purposes, and includes,
 - (i) money in an account with a chartered bank, savings office, credit union or trust company where the account is ordinarily used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes,

- (ii) where property owned by a corporation or trustee would, if it were owned by a spouse, be a family asset, shares in the corporation or an interest in the trust owned by the spouse having a market value equal to the value of the benefit the spouse has in respect of the property,
- (iii) property over which a spouse has, either alone or in conjunction with another person, a power of appointment exercisable in favour of himself or herself, if the property would be a family asset if it were owned by the spouse, and
- (iv) property disposed of by a spouse but over which the spouse has, either alone or in conjunction with another person, a power to revoke the disposition or a power to consume, invoke or dispose of the property, if the property would be a family asset if it were owned by the spouse,

but does not include property that the spouses have agreed by a domestic contract is not to be included in the family assets;

- (c) “property” means real or personal property or any interest therein.

Division of
family
assets

4.—(1) Subject to subsection 3, where a decree *nisi* of divorce is pronounced or a marriage is declared a nullity or where the spouses are separated and there is no reasonable prospect of the resumption of cohabitation, each spouse is entitled to have the family assets divided in equal shares notwithstanding the ownership of the assets by the spouses as determinable for other purposes and notwithstanding any order under section 6.

Application
to court

(2) The court may, upon the application of a person who is the spouse of another, determine any matter respecting the division of family assets between them.

Variation
of division

(3) The court may make a division of family assets resulting in shares that are not equal where the court is of the opinion that a division of the family assets in equal shares would be inequitable, having regard to,

- (a) any agreement other than a domestic contract;

SECTION 4. This section gives a spouse the right to have the family assets divided where the marriage has broken down. The division can be accomplished by agreement or by court order. The family assets will be divided equally notwithstanding which spouse is the owner of them, even though that ownership has been determined under section 6, unless one of the spouses can satisfy the court that an equal division of family assets would be inequitable in view of the enumerated factors. Once satisfied, the court can divide the family assets unequally or divide other property of the spouse, including business property. The underlying purpose of the section is set out in subsection 5.

SECTION 5 allows an application to court to determine the mechanics of the division of the family assets or other property subject to division. The powers of the court include the power to order partition or sale. Recourse to *The Partition Act* will be unnecessary.

- (b) the duration of the period of cohabitation under the marriage;
- (c) the duration of the period during which the spouses have lived separate and apart;
- (d) the date when the property was acquired;
- (e) the extent to which property was acquired by one spouse by inheritance or by gift; or
- (f) any other circumstance relating to the acquisition, disposition, preservation, maintenance, improvement or use of property rendering it inequitable for the division of family assets to be in equal shares.

(4) Where, in the opinion of the court, a spouse has unreasonably impoverished the family assets or the result of a division of the family assets would be inequitable in all the circumstances having regard to the considerations set out in clauses *a* to *f* of subsection 3, the court may make a division of any property that is not a family asset.

Property
other than
family
assets

(5) The purpose of this section is to recognize that inherent in the marital relationship there is mutual contribution by the spouses, whether financial or otherwise, to the family welfare, entitling each spouse to an equal division of the family assets upon termination of the marriage, subject to the equitable considerations set out in subsections 3 and 4.

Purpose

5. In an application under section 4, the court may order, *Idem*

- (a) that the title to any specified property directed to a spouse in the division be transferred to or in trust for or vested in the spouse whether absolutely, for life or for a term of years;
- (b) the partition or sale of any property;
- (c) that payment be made out of the proceeds of sale to one or both spouses, and the amount thereof;
- (d) that any property forming part of the share of either or both spouses be transferred to or in trust for or vested in a child to whom a spouse owes an obligation to provide support;
- (e) that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property; and

- (f) that either spouse pay to the other such sum as is set out in the order for the purpose of adjusting the division,

and may make such other orders or directions as are ancillary thereto.

Determin-
ation of
questions of
title between
married
persons

6. Any person may apply to the court for the determination of any question between that person and his or her spouse or former spouse as to the ownership or right to possession of any particular property, except where an application or an order has been made respecting the property under section 4 or 5, and the court may,

- (a) declare the ownership or right to possession;
- (b) where the property has been disposed of, order payment in compensation for the interest of either party;
- (c) order that the property be partitioned or sold for the purpose of realizing the interests therein; and
- (d) order that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property,

and may make such other orders or directions as are ancillary thereto.

Contribution
to property

7. Where one spouse or former spouse has contributed work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of property, other than family assets, in which the other has or had an interest, upon application, the court may by order,

- (a) direct the payment of an amount in compensation therefor; or
- (b) award a share of the interest of the other spouse or former spouse in the property appropriate to the contribution,

and the court shall determine and assess the contribution without regard to the relationship of husband and wife or the fact that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances. 1975, c. 41, s. 1 (3) (c), *amended*.

SECTION 6. This section is based on and replaces section 12 of *The Married Women's Property Act*. It allows applications to determine ownership or the right to possession of particular pieces of property, and is not restricted to a marriage breakdown situation. This section is not available where an application under section 4 has been made in respect of the same property. The court may order compensation for a spouse if the other has disposed of the property in question. The court has the power to order partition, so that recourse to *The Partition Act* will not be necessary.

SECTION 7. Is based on section 1 (3) (c) of *The Family Law Reform Act, 1975* and extends that provision so as to allow the court to recognize the spouse's contribution to particular property.

SECTION 9. This section provides a mechanism for enforcing an order charging property.

SECTION 11. This provision formerly appeared as section 1 (3) (d) of *The Family Law Reform Act, 1975*.

SECTION 12. This Part applies to persons married and to property owned when this Act comes into force, except where the spouses have already started a court proceeding over property rights.

8. In or pending an application under section 4, 6 or 7, the court may make such interim order as it considers necessary for restraining the dissipation of the property and for the possession, delivering up, safekeeping and preservation of the property. Interim orders for preservation

9. Where a court orders security for the performance of any obligation under this Part or charges a property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge. Realization of security

10. Where an order made under this Part affects real property, the order does not affect the acquisition of an interest in the real property by a person in good faith without notice of the order, unless the order is registered in the proper land registry office. Registration of orders

11.—(1) The rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that, Presumptions

(a) the fact that property is placed or taken in the name of spouses as joint tenants is *prima facie* proof that each spouse is intended to have a one-half beneficial interest in the property; and

(b) money on deposit in a chartered bank, savings office, credit union or trust company in the name of both spouses shall be deemed to be in the name of the spouses as joint tenants for the purposes of clause a. 1975, c. 41, s. 1 (3) (d), *amended*.

(2) Subsection 1 applies notwithstanding that the event giving rise to the presumption occurred before this section comes into force. Application

12. This Part applies notwithstanding that, Application of Part

(a) the spouses entered into the marriage before this Part comes into force; or

(b) the property in issue was acquired before this Part comes into force,

but does not apply in respect of property rights to which a claim has been made in a proceeding that was commenced before this Part comes into force.

Conflict
of laws

13.—(1) The division of family assets and the ownership as between spouses of movable property wherever situate are governed by the internal law of the place where both spouses had their last common habitual residence or, where there is no place where the spouses had a common habitual residence, by the law of Ontario.

Idem

(2) The ownership of immovable property as between spouses is governed by the internal law of the place where the land is situated, but where the law of Ontario is applicable respecting the division of family assets, the value of the property may be taken into consideration for the purposes of section 4.

PART II

SUPPORT OBLIGATIONS

Interpre-
tation

14. In this Part,

(a) “dependant” means a person to whom another has an obligation to provide support under this Part;

(b) “spouse” means a spouse as defined in section 1, and includes,

(i) either of a man and woman not being married to each other who have cohabited,

1. continuously for a period of not less than five years, or

2. in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year, and

(ii) either of a man and woman between whom an order for support has been made under this Part or an order for alimony or maintenance has been made before this Part comes into force.

Obligation
of spouses
for support

15. Every spouse has an obligation to provide support for himself or herself and for the other spouse, in accordance with need, to the extent that he or she is capable of doing so.

SECTION 13. This Part will apply to spouses who do not have a marriage contract [see section 2 (9)] and whose last common habitual residence was in Ontario or who never had a common habitual residence. Where the spouses' last common habitual residence was outside Ontario, the ownership of their movable property and their right to divide family assets will be governed by the law of that other jurisdiction.

The ownership of spouses' land is governed by the law of the place where the land is situated. Where this Part applies to the spouses, land outside Ontario cannot be ordered sold or partitioned by the court. However, the court can take the value of that land into account and give a smaller share of movable property or land in Ontario to the spouse who owns the foreign land, in order to adjust the division of family assets.

SECTION 14. The definition of "spouse" is broadened to include a "common law" spouse as defined.

SECTION 15. This section creates an obligation on spouses to be self-supporting and to support the other spouse, depending on ability to provide support and the needs of the other spouse. Matrimonial misconduct will no longer be the basis for making or denying an award of support, but see section 18 (5).

SECTION 16. The parental obligation to support a child is extended beyond the age of 16 years where the child is unable to provide himself with necessities of life because of illness, disability or other cause, which would include attendance at school or university, where reasonable. This wording is borrowed from the *Divorce Act* (Canada).

SECTION 17. A corresponding obligation is placed on children over the age of 18 to support their parents when in need, in accordance with ability. This section replaces the existing *Parents' Maintenance Act*, which imposes a similar obligation.

SECTION 18. A parent, or a public agency or children's aid society providing welfare or family benefits will be able to claim support for a dependant.

Subsection 4 contains a check-list to assist the court in determining the needs of the dependant and the ability to pay of the person from whom support is claimed. The court is directed to take into consideration any loss of earning capacity or opportunity for advancement occasioned by the responsibilities assumed during cohabitation and may include assistance to a spouse to attain financial independence.

16. Every parent has an obligation, to the extent the parent is capable of doing so, to provide education and support, in accordance with need, for his or her child who is unmarried and, Obligation of parent to support child

- (a) is under the age of sixteen years; or
- (b) is of the age of sixteen years or over and in the charge of a parent but unable, by reason of illness, disability or other cause, to withdraw from the charge of his or her parents or to provide himself or herself with necessities.

17. Every child who is not a minor has an obligation to provide support, in accordance with need, for his or her parent who has cared for and provided support for the child, to the extent that the child is capable of doing so. Obligation of child to support parent

18.—(1) A court may, upon application, order a person to provide support for his or her dependants and determine the amount thereof. Order for support

(2) An application for an order for the support of a dependant may be made by the dependant or a parent of the dependant or by, Applicants

- (a) the Ministry of Community and Social Services in the name of the Minister;
- (b) a municipal corporation, including a metropolitan, district or regional municipality, but not including an area municipality thereof; or
- (c) a children's aid society,

where the Ministry, municipality or society is providing an allowance or benefit in respect of the support of the dependant.

(3) The court may set aside a provision for support in a domestic contract or paternity agreement and may determine and order support in an application under subsection 1 notwithstanding that the contract or agreement contains an express provision excluding the application of this section, Setting aside domestic contract

- (a) where the provision for support or the waiver of the right to support results in circumstances that are unconscionable;
- (b) where the provision for support is to a spouse who qualifies for an allowance for support out of public money; or
- (c) where there has been default in the payment of support under the contract or agreement.

Determin-
ation of
amount

(4) In determining the amount, if any, of support in relation to need, the court shall consider all the circumstances of the parties, including,

- (a) the assets and means of the dependant and of the respondent and any benefit or loss of benefit under a pension plan or annuity;
- (b) the capacity of the dependant to provide for his or her own support;
- (c) the capacity of the respondent to provide support;
- (d) the age and the physical and mental health of the dependant and of the respondent;
- (e) the length of time the dependant and respondent cohabited;
- (f) the needs of the dependant, in determining which the court may have regard to the accustomed standard of living while the parties resided together;
- (g) the measures available for the dependant to become financially independent and the length of time and cost involved to enable the dependant to take such measures;
- (h) the legal obligation of the respondent to provide support for any other person;
- (i) the desirability of the dependant or respondent remaining at home to care for a child;
- (j) a contribution by the dependant to the realization of the career potential of the respondent;
- (k) where the dependant is a child, his or her aptitude for and reasonable prospects of obtaining an education;
- (l) where the dependant is a spouse, the effect on his or her earning capacity of the responsibilities assumed during cohabitation; and
- (m) any other source of support for the dependant other than out of public money.

SECTION 19. The court has broad powers to make the most suitable order or combination of orders regarding support, including the making of both periodic and lump sum orders and the granting of security to ensure payments. The court can also order the respondent to reimburse a public agency for payments it has made to the dependant. The court can provide for the dependant's support after the respondent's death.

If the order is not expressed to survive the respondent, it terminates on death and only 12 months arrears are enforceable.

A support order may be assigned to a public agency paying benefits to the dependant. This allows the agency to continue the steady income of the dependant and leaves the burden of enforcement and the risk of non-payment on the agency.

(5) The obligation to provide support exists without regard ^{Conduct} to the conduct of the spouse requiring the support, but the court may limit the amount of support having regard to a course of conduct that is an obvious and gross repudiation of the relationship.

19.—(1) In an application under section 18, the court ^{Powers of court} may order,

- (a) an amount payable periodically, whether annually or otherwise and whether for an indefinite or limited period, or until the happening of a specified event;
- (b) a lump sum to be paid or held in trust;
- (c) any specified property to be transferred to or in trust for or vested in the dependant, whether absolutely, for life or for a term of years;
- (d) any matter authorized to be ordered under clauses *a* to *d* of subsection 1 of section 45 and subject to subsection 3 thereof;
- (e) that all or any of the moneys payable under the order be paid into court or to any other appropriate person or agency for the benefit of the dependant;
- (f) the payment of support to be made in respect of any period before the date of the order;
- (g) the payment to an agency referred to in subsection 2 of section 18 of any amount in reimbursement for an allowance or benefit granted in respect of the support of the dependant, including an amount in reimbursement for an allowance paid or benefit provided before the date of the order;
- (h) the payment of expenses in respect of the pre-natal care and birth of a child;
- (i) that the obligation and liability for support continue after the death of the respondent and be a debt of his or her estate for such period as is fixed in the order;
- (j) that a spouse who has a policy of life insurance as defined in Part V of *The Insurance Act* desig- ^{R.S.O. 1970, c. 224}

nate the other spouse or a child as the beneficiary irrevocably; and

(*k*) the securing of payment under the order, by a charge on property or otherwise.

Limitation
on
jurisdiction
of family
court

(2) A provincial court (family division) shall not make an order under clause *b*, *c* or *j* of subsection 1 except for the provision of necessities or preventing the dependant from becoming a public charge.

Interim
orders

(3) Where an application is made under section 18, the court may make such interim order as the court considers appropriate.

Assignment
of support

(4) An order for support is assignable to an agency referred to in subsection 2 of section 18.

Termination
of support
order on
death

(5) Unless an order to provide support otherwise provides, it terminates upon the death of the person having the obligation to provide support, and the liability for amounts under the order coming due and unpaid in the preceding twelve months is a debt of his or her estate.

Effect of
divorce
proceedings
R.S.C. 1970,
c. D-8

20.—(1) Where an action for divorce is commenced under the *Divorce Act* (Canada), any application for support or custody under this Part that has not been determined is stayed except by leave of the court.

Idem

(2) Where a marriage is terminated by a decree absolute of divorce or declared a nullity and the question of support was not judicially determined in the divorce or nullity proceedings, an order for support made under this Part continues in force according to its terms.

Review and
variation
of orders

21.—(1) Where an order for support has been made or confirmed and where the court is satisfied that there has been a material change in the circumstances of the dependant or the respondent or evidence has become available that was not available on the previous hearing, the court may, upon the application of any person named in the order or referred to in subsection 2 of section 18, discharge, vary or suspend any term of the order, prospectively or retroactively, relieve the respondent from the payment of part or all of the arrears or any interest due thereon and make such other order under section 19 as the court considers appropriate in the circumstances referred to in section 18.

SECTION 20. To avoid having the issue of support before two different courts, an application under this Part is stayed when a divorce is sought and any support order will be made under the *Divorce Act* (Canada). Where support is not before the trial judge as an issue in a divorce, an order under this Part survives the divorce. Under existing law, provincial orders in favour of a child continue but those in favour of a spouse do not.

SECTION 21. An order for support may be varied or ended if there has been a material change of circumstances or new evidence becomes available. The court also has power to wipe out arrears and interest.

If the original order was made by a county or district court, both the original court and another county or district court have jurisdiction to vary the order. The same provision is available for variation by one provincial court (family division) of an order made by another provincial court (family division).

This section applies to the variation of support orders made before this Act takes effect.

SECTION 22. A proposed sale of assets that would defeat a claim or an order for payment of support may be restrained by court order.

SECTION 23. Disclosure of financial information will be required of both the applicant and the person from whom support is claimed in order to ascertain need and ability to pay. The court will have discretion to make the disclosure confidential.

SECTION 25. Where appropriate, a provincial court (family division) or the Unified Family Court can make a provisional order against a respondent who lives outside the judicial district and who fails to appear at the hearing. The order is sent to the court having jurisdiction where the respondent lives and has no effect unless that court confirms it. This procedure is adapted from *The Deserted Wives' and Children's Maintenance Act*.

(2) An application under subsection 1 shall be made to Court the court that made the order or to a co-ordinate court in another part of Ontario.

(3) No application under subsection 1 shall be made within six months after the making of the order for support or the disposition of any other application under subsection 1 in respect of the same order, except by leave of the court. Limitation on applications for review

(4) This section applies to orders for maintenance or alimony made before this section comes into force or in a proceeding commenced before this section comes into force. Existing orders

22. In or pending an application under section 18 or appearance to a notice under section 28, or where an order for support has been made, the court may make such interim or final order as it considers necessary for restraining the disposition or wasting of assets that would impair or defeat the claim or order for the payment of support. Restraining orders

23.—(1) Where an application is made under section 18 or 21, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of financial information in the manner and form prescribed by the rules of the court. Statement of financial affairs

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection 1 would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record. Order for sealing statement

24. Where an application is made under section 18 or a notice is issued under section 28 and a judge of the court is satisfied that the respondent or debtor is about to leave Ontario, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent or debtor. Absconding respondent or debtor

25.—(1) Where an application is made under section 18 or 21 in a provincial court (family division) or the Unified Family Court and, Provisional orders

(a) the respondent in the application fails to appear;

(b) it appears to the court that the respondent resides in a locality in Ontario that is outside the territorial jurisdiction of the court; and

- (c) in the circumstances of the case, the court is of the opinion that the issues can be adequately determined by proceeding under this section,

the court may proceed in the absence of the respondent and without the statement of the financial affairs of the respondent required by section 23 and in place of a final order may make an order for support that is provisional only and the order has no effect until it is confirmed by the provincial court (family division) or the Unified Family Court in the locality in which the respondent resides.

Transmission
for hearing

(2) Where a provisional order is made under subsection 1, the court making the order shall send to the court having jurisdiction in the locality in which the respondent resides copies of such documents and records, certified in such manner, as are prescribed by the rules of the court.

Show
cause

(3) The court to which the documents and records are sent under subsection 2 shall cause them to be served upon the respondent together with a notice to file with the court the statement of financial affairs required by section 23 and to appear and show cause why the provisional order should not be confirmed.

Confirmation
of order

(4) At the hearing, the respondent may raise any defence that might have been raised in the original proceedings, but, if on appearing the respondent fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order without variation or with such variation as the court considers proper having regard to all the evidence.

Adjournment
for further
evidence

(5) Where the respondent appears before the court and satisfies the court that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the court where the applicant resides, the court may so remit the case and adjourn the proceedings for that purpose.

Where order
not confirmed

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court that made the order together with a statement of the reasons for so doing, and in that event the court that made the order may dispose of the application in such manner as it considers proper.

Certificates
as
evidence

(7) A certificate certifying copies of documents or records for the purpose of this section and purporting to be signed by the clerk of the court is, without proof of the office or

SECTION 26. In order to start a support application or to enforce a support order, the applicant may obtain an order requiring a person such as an employer or public agency, including the Province of Ontario, to provide access to its records for the sole purpose of obtaining the address of a person ordered to pay support.

SECTION 27. This section allows support orders made in any court to be filed for enforcement in the new Unified Family Court or the provincial court (family division). It replaces section 25 of *The Provincial Courts Act*. This section recognizes the administrative practice whereby court officials automatically enforce orders in family court.

The provincial court (family division) will have power to enforce support orders by execution and garnishment. Formerly support orders were enforceable in small claims court only up to the monetary jurisdiction of that court.

Garnishee and attachment orders may be obtained against the Crown for support.

signature of the clerk, admissible in evidence in a court to which it is transmitted under this section as *prima facie* proof of the authenticity of the copy.

(8) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have had if the order had been made under section 19.

Right of
appeal

26.—(1) Where it appears to a court that,

Access to
records

(a) for the purpose of bringing an application under this Part; or

(b) for the purpose of the enforcement of an order for support, custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order is made, the court may order any person or public agency to provide the court with such particulars of the address as are contained in the records in its custody and the person or agency shall provide to the court such particulars as it is able to provide.

(2) This section binds the Crown in right of Ontario.

Section
binds Crown

27.—(1) The clerk of the Unified Family Court or of a provincial court (family division), upon the request of a person entitled to support under an order for support or maintenance enforceable in Ontario or other persons or agency mentioned in subsection 2 of section 18 and upon the filing of such material as is prescribed by the rules may enforce the order.

Enforcement
of orders by
family court
clerk

(2) A provincial court (family division) and the judges thereof have the power to issue execution and garnishment and enforce orders under subsection 1 in the same manner as small claims courts and the judges thereof, but without monetary limitation.

Powers of
court for
enforcement

(3) Notwithstanding section 25 of *The Proceedings Against the Crown Act*, an attachment under subsection 1 of section 30 and any other execution, garnishment or attachment or process in the nature thereof for the payment of an amount owing or accruing under an order for support or maintenance, may be issued against the Crown.

Crown
subject to
attachment
for support
R.S.O. 1970,
c. 365

Examination
of debtor

28.—(1) Where there is default in payment under an order for support or maintenance, a clerk of the Unified Family Court or a provincial court (family division) may require the debtor, upon notice,

- (a) to file a statement of financial information referred to in section 23;
- (b) submit to an examination as to assets and means; and
- (c) appear before the court to explain the default.

Compelling
attendance

(2) If the debtor fails to appear as required after being served with a notice, or if the court is satisfied that the debtor cannot be served or intends to leave Ontario without appearing as required after being served, the court giving the notice may issue a warrant for the arrest of the debtor for the purpose of compelling attendance.

Penalty
for
default

29.—(1) Where the debtor fails to satisfy the court that the default is owing to his inability to pay, the court may order imprisonment for a term of not more than three months.

Conditions
of sentence

(2) The order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order and the order for imprisonment may provide for the imprisonment to be served intermittently.

Attachment
of wages

30.—(1) Where the court considers it appropriate in a proceeding under section 28, the court may make an attachment order directing the employer of the debtor to deduct from any remuneration of the debtor due at the time the order is served on the employer or thereafter due or accruing due such amount as is named in the order and to pay the amounts deducted into court, and section 7 of *The Wages Act* does not apply.

R.S.O. 1970,
c. 486

Priority
of order

(2) An order under subsection 1 has priority over any other seizure or attachment of wages arising before or after the service of the order.

Security
for
payment

31. Where the court considers it appropriate in a proceeding under section 28, the court may order the debtor to give security for the payment of support or charge any property of the debtor therewith.

SECTION 28. Where a debtor under an order defaults, the debtor can be required to disclose financial particulars and appear before the court to explain the default. The debtor can be arrested if about to abscond. This procedure is adapted from *The Deserted Wives' and Children's Maintenance Act*.

SECTION 29. This procedure exists under *The Deserted Wives' and Children's Maintenance Act*. The power to imprison is made flexible enough to allow for a conditional or intermittent sentence.

SECTION 30. This section is new. It allows a court order for a continuing deduction at source by the employer in order to satisfy a support order. The attachment would have priority over any other seizure of wages. See also sections 76 and 84.

SECTION 32. This section provides a mechanism for enforcing a secured support order by selling the security.

SECTION 33. While living together, either spouse may pledge the credit of the other for necessities unless this authority is specifically withdrawn by notice to the creditor. Both spouses are then jointly liable to the creditor. Similarly, under subsection 2, a creditor may recover necessities provided to a child under 16 from both the parents and the child. The liability as between the spouses, or between parent and child, is determined in accordance with need and ability to pay as set out in sections 15, 16 and 17.

Subsection 4 abolishes the common law agency of cohabitation and agency of necessity, which applied only in favour of a wife.

SECTION 34. This section provides a civil remedy to prevent a spouse from continually harassing and interfering with the other.

SECTION 35. This section provides for the making of a custody order or interim order in favour of either parent in the best interests of the child. The custody order need not be tied to a support order, as is now the case under section 3 of *The Deserted Wives' and Children's Maintenance Act*.

32. Where a court orders security for the payment of support under this Part or charges property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge. Realization of security

33.—(1) During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessities of life, except where the spouse has notified the third party that he or she has withdrawn the authority. Pledging credit for necessities

(2) Where a person is entitled to recover against a minor under sixteen years of age in respect of the provision of necessities for the minor, each parent who has an obligation to support the minor is liable therefor jointly and severally with the minor. Liability for necessities of minor

(3) Where persons are jointly and severally liable with each other under this section, their liability to each other shall be determined in accordance with their obligation to provide support. Recovery between persons jointly liable

(4) The provisions of this section apply in place of the rules of common law by which a wife may pledge the credit of her husband. Common law supplanted

34. Upon application, a court may make an order restraining the spouse of the applicant from molesting, annoying or harassing the applicant or children in the lawful custody of the applicant and may require the spouse of the applicant to enter into such recognizance as the court considers appropriate. Order restraining harassment

35.—(1) Upon application, the court may order that either parent or any person have custody of or access to a child in accordance with the best interests of the child and may at any time alter, vary or discharge the order. Custody of children

(2) An application to alter, vary or discharge the order shall be made to the court that made the order or to a co-ordinate court in another part of Ontario. Court

(3) Where an application is made under subsection 1, the court may make such interim order as the court considers appropriate. Interim orders

(4) This section applies to orders for custody or access made under *The Deserted Wives' and Children's Maintenance Act*. Application to orders under R.S.O. 1970, c. 128

Appeal
from
provincial
court (family
division)

36. An appeal lies from an order of the provincial court (family division) under this Part to the county or district court in the county or district in which the provincial court (family division) is situated.

Contempt
of orders of
provincial
court (family
division)

37.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders under this Act, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed three months.

Conditions
of
imprison-
ment

(2) An order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

PART III

MATRIMONIAL HOME

Interpre-
tation

38. In this Part, “property” means real or personal property.

Matrimonial
home

39.—(1) Property in which a person has an interest and that is or has been occupied by the person and his or her spouse as their family residence is their matrimonial home.

More
than one
matrimonial
home

(2) Subsection 1 applies notwithstanding that its application results in more than one matrimonial home.

Ownership
of shares

(3) The ownership of a share or shares, or of an interest in a share or shares, of a corporation entitling the owner to the occupation of a housing unit owned by the corporation shall be deemed to be an interest in the unit for the purposes of subsection 1.

Residence
on farm-
land, etc.

(4) Where property that includes a matrimonial home is normally used for a purpose other than residential only, the matrimonial home is only such portion of the property as may reasonably be regarded as necessary to the use and enjoyment of the residence.

Right to
possession

40.—(1) A spouse is equally entitled to any right of possession of the other spouse in a matrimonial home.

Termination
of right to
possession

(2) Subject to an order of the court under this or any other Act, a right of a spouse to possession by virtue of subsection 1 ceases upon the spouse ceasing to be a spouse.

SECTION 36. Appeals are provided for in Acts governing the Supreme Court and county courts. This section is necessary because *The Provincial Courts Act* does not contain provisions for appeals. The appeal procedure will be set out in the rules.

SECTION 37. This section gives a provincial court (family division) the power to punish contempt of its orders under this Part. The Supreme Court and county courts already have such power.

SECTION 38. This Part extends to mobile homes, trailers, houseboats, etc.

SECTION 39. Where the family has or had two or more homes, this Part applies to all the family residences, subject to section 41. The definition of "matrimonial home" includes a home rented by the family and a unit in a co-operative housing development.

Where the property on which a matrimonial home is used for a purpose that is more than residential, such as for farming or other business purposes, only the surrounding land reasonably necessary for use of the residence is affected by this Part.

SECTION 40. Notwithstanding which spouse owns the home, both spouses are equally entitled to possession. The equal right to possession may be altered by a court order under section 45.

SECTION 41. The spouses may jointly designate one or more properties as matrimonial homes, and thereupon this Part ceases to apply to any property other than those designated. The designation must be registered.

SECTION 42. A spouse may not sell, lease, mortgage or otherwise deal with the matrimonial home unless the non-owning spouse's consent in writing is obtained, a court dispenses with the consent under section 44 or another home has been designated as the matrimonial home. If a spouse deals with the home without consent, the transaction can be set aside unless an innocent third party holds the interest at that time. The affidavit of a spouse is sufficient protection for a bona fide purchaser.

41.—(1) Both spouses may, by instrument in the form prescribed by the regulations, designate any property that is a matrimonial home and, upon the registration of the instrument and while there is a designation made by the spouses under this subsection that is not cancelled, any other property that would qualify as a matrimonial home under section 39 and that is not similarly designated ceases to be a matrimonial home. Registered designation of matrimonial home

(2) The property that is designated as a matrimonial home under subsection 1 may include any property contiguous to the matrimonial home that is described for the purpose in the instrument. Extent of designation

(3) The designation of a matrimonial home under subsection 1 is cancelled upon the registration or deposit of, Cancellation of designation

(a) an instrument in the form prescribed by the regulations executed by both spouses;

(b) a decree absolute of divorce or judgment of nullity;

(c) an order under section 45 cancelling the designation; or

(d) proof of death of one of the spouses.

(4) Upon the cancellation of the designation of a property under subsection 3, the property ceases to be a matrimonial home under section 39. Effect of cancellation

(5) Upon there ceasing to be a designation under subsection 1, section 39 applies in respect of property that is a matrimonial home. Revival of matrimonial homes

42.—(1) No spouse shall dispose of or encumber any interest in a matrimonial home unless, Alienation of matrimonial home

(a) the other spouse joins in the instrument or consents to the transaction;

(b) the transaction is authorized by court order or an order has been made releasing the property as a matrimonial home;

(c) the property is not designated as a matrimonial home under section 41 and an instrument designating another property as a matrimonial home of the spouses is registered under section 41 and not cancelled.

Setting
aside
transaction

(2) Where a spouse disposes of or encumbers an interest in a matrimonial home in contravention of subsection 1, the transaction may be set aside on an application under section 44 unless the person holding the interest or encumbrance at the time of the application acquired it for value, in good faith and without notice that the property was at the time of the disposition, agreement or encumbrance a matrimonial home.

Proof that
property
not a
matrimonial
home

(3) For the purposes of subsection 2, an affidavit of the person making the disposition or encumbrance,

- (a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;
- (b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home; or
- (c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled,

shall, in the absence of actual notice by a spouse to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home.

Liens
arising by
operation
of law
R.S.O. 1970,
c. 239

(4) This section does not apply to the acquisition of an interest in property by operation of law or of a lien under section 18 of *The Legal Aid Act*.

Right of
redemption
and to
notice

43.—(1) Where a person is proceeding to realize upon a lien, encumbrance or execution or exercises a forfeiture against property that is a matrimonial home, the spouse who has a right of possession by virtue of section 40 has the same right of redemption or relief against forfeiture as the other spouse has and is entitled to any notice respecting the claim and its enforcement or realization to which the other spouse is entitled.

Service of
notice

(2) Any notice to which a spouse is entitled by virtue of subsection 1 shall be deemed to be sufficiently given if served or given personally or by registered mail addressed to the person to whom notice is to be given at his or her usual or last known address or, where none, the address of the matrimonial home, and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing.

SECTION 43. The non-owning spouse is protected by requiring landlords, mortgagees and other lienholders to accept payment from and give notice to that spouse as if he or she were an owner.

SECTION 45. The court has power to grant exclusive possession of part or all of the home and contents, but is not to exercise the power unless satisfied that other provision for shelter is inadequate in the circumstances.

(3) Where a spouse makes any payment by way of or on account of redemption or relief against forfeiture under the right conferred by subsection 1, the payment shall be applied in satisfaction of the claim giving rise to the lien, encumbrance, execution or forfeiture.

Effect of
payments
made by
spouse

44. The court may, on the application of a spouse or person having an interest in property, by order,

Powers of
court
respecting
alienation

- (a) determine whether or not property is the matrimonial home and, if so, its extent;
- (b) authorize the disposition or encumbrance of the matrimonial home where the court finds that the spouse whose consent is required,
 - (i) cannot be found or is not available,
 - (ii) is not capable of giving or withholding consent, or
 - (iii) is unreasonably withholding consent,

subject to such terms and conditions including provision of other comparable accommodation or payment in place thereof as the court considers appropriate;

- (c) dispense with any notice required to be given under section 43; and
- (d) direct the setting aside of any transaction disposing of or encumbering an interest in the matrimonial home without the required consent and the revesting of the interest or any part of the interest upon such terms and subject to such conditions as the court considers appropriate.

45.—(1) Notwithstanding the ownership of a matrimonial home and its contents, and notwithstanding section 40, the court on application may by order,

Order for
possession of
matrimonial
home

- (a) direct that one spouse be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs and release any other property that is a matrimonial home from the application of this Part;
- (b) direct a spouse to whom exclusive possession of a matrimonial home is given to pay such periodic

payments to the other spouse as is prescribed in the order;

- (c) direct that the contents of a matrimonial home, or any part thereof, remain in the home for the use of the person given possession;
- (d) fix the obligation to repair and maintain the matrimonial home or to pay other liabilities arising in respect thereof;
- (e) authorize the disposition or encumbrance of the interest of a spouse in a matrimonial home subject to the right to exclusive possession of the other spouse as ordered; and
- (f) where a false declaration is given under subsection 3 of section 42, direct the substitution of other real property for the matrimonial home or the setting aside of money or security to stand in place thereof, subject to such terms and conditions as the court considers appropriate.

Temporary
possession

(2) An order may be made under subsection 1 for temporary relief or pending the bringing or disposition of another application under this Act.

Order
where no
property
interest

(3) An order for exclusive possession under subsection 1 shall not be made in favour of a spouse unless, in the opinion of the court, other provision for shelter is not adequate in the circumstances or it is in the best interests of a child to do so.

Limitation
on
jurisdiction
of family
court

(4) A provincial court (family division) shall not make an order under clause *b* or *d* of section 44 or clause *e* or *f* of subsection 1.

Variation
of order

46. Upon the application of a person named in an order made under clause *a*, *b*, *c* or *d* of subsection 1 of section 45 and where the court is satisfied that there has been a material change in circumstances, the court may discharge, vary or suspend the order.

Interim
order for
preservation
of property

47. In an application under this Part, the court may make such interim order as it considers necessary for the delivering up, safekeeping and preservation of the matrimonial home or its contents.

Registration
of order
R.S.O. 1970,
cc. 409, 234

48. An order made under this Part is registrable against land under *The Registry Act* and *The Land Titles Act*.

SECTION 48. An order for possession may be registered against the land so as to provide notice to third parties.

SECTION 49. This Part applies to all matrimonial homes in Ontario, whether or not the spouses have a marriage contract (see section 55) and whether or not the spouses are otherwise subject to Ontario property law (see section 12). This Part covers persons married and matrimonial homes acquired before this Act comes into force, except where a spouse has applied for an order for possession before this Act is in effect.

SECTIONS 50 TO 53. This Part overcomes the common law rule which held that marriage contracts contemplating a future separation or divorce were void.

The sections create a general category called "domestic contracts", which is made up of marriage contracts, cohabitation agreements and separation agreements. Cohabitation agreements are akin to marriage contracts, but the parties are not married. Only a separation agreement may provide for custody of or access to children.

Court approval must be given to the marriage contract of a minor capable of entering into a marriage. Similarly, court approval is required where a committee enters into a domestic contract on behalf of a spouse who becomes mentally incompetent.

49.—(1) This Part applies to matrimonial homes that are ^{Application of Part} situated in Ontario.

(2) This Part applies notwithstanding that, Idem

- (a) the spouses entered into the marriage before this Part comes into force; or
- (b) the matrimonial home was acquired before this Part comes into force,

but does not apply to proceedings respecting possession of a matrimonial home that were commenced before this Part comes into force.

PART IV

DOMESTIC CONTRACTS

50. In this Part, Interpre-
tation

- (a) “cohabitation agreement” means an agreement entered into under section 52;
- (b) “domestic contract” means a marriage contract, separation agreement or cohabitation agreement;
- (c) “marriage contract” means an agreement entered into under section 51;
- (d) “separation agreement” means an agreement entered into under section 53.

51. Two persons may enter into an agreement, before ^{Marriage contracts} their marriage or during their marriage while cohabiting, in which they agree on their respective rights and obligations under the marriage or upon separation or the annulment or dissolution of the marriage or upon death, including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and
- (d) any other matter in the settlement of their affairs.

Cohabitation
agreements

52.—(1) A man and a woman who are cohabiting and not married to one another may enter into an agreement in which they agree on their respective rights and obligations during cohabitation, or upon ceasing to cohabit or death, including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and
- (d) any other matter in the settlement of their affairs.

Effect of
marriage on
agreement

(2) Where the parties to an agreement entered into under subsection 1 subsequently marry, the agreement continues in force subject to any further agreement under this Part.

Separation
agreements

53. A man and woman who cohabited and are living separate and apart may enter into an agreement in which they agree on their respective rights and obligations, including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children;
- (d) the right to custody of and access to their children; and
- (e) any other matter in the settlement of their affairs.

Form of
contract

54.—(1) A domestic contract and any agreement to amend or rescind a domestic contract are void unless made in writing and signed by the persons to be bound and witnessed.

Capacity
of minor

(2) A minor who has capacity to contract marriage has capacity to enter into a marriage contract or separation agreement that is approved by the court, whether the approval is given before or after the contract is entered into.

Agreement
on behalf of
mentally
incompetent

(3) The committee of a person who is mentally incompetent or, if the committee is the spouse of such person or, if there is no committee, the Public Trustee may, subject to the approval of the court, enter into a domestic contract or

SECTION 55. Before separation, a spouse may not contract out of the right to control dealings with the matrimonial home or obtain possession of it. Any provision in a domestic contract respecting a child is to be enforced only if in the child's best interests. Subsection 3 invalidates a *dum casta* clause. See also section 18 (3).

Domestic contracts will also be invalid for any reason that would void another kind of contract, such as fraud, duress or undue influence.

Where a provision is held void, the court will determine under the ordinary law of contract whether the provision can be severed so as to allow enforcement of the remainder of the contract.

SECTION 56. Where a third party makes a gift to either or both spouses, subject to the condition that they do not dispose of it without his consent, and this provision is contained in a marriage contract, the person making the gift can enforce the provision notwithstanding that he was not a party to the original contract.

SECTION 57. A marriage contract may be subject to foreign law. If it is valid under either the foreign law or Ontario law, it will be recognized in Ontario. However, no marriage contract will be enforced to the extent that it contradicts section 55 or 18 (3).

SECTION 58. This section replaces the provisions for affiliation agreements formerly found in Part III of *The Child Welfare Act*. That Part is repealed by section 73.

give any waiver or consent under this Act on behalf of the mentally incompetent person.

55.—(1) Any provision in a marriage contract purporting to limit the rights of a spouse under Part III in respect of a matrimonial home is void. Rights re matrimonial home excepted

(2) In the determination of any matter respecting the support, education, moral training or custody of or access to a child, the court may disregard any provision of a domestic contract pertaining thereto where, in the opinion of the court, to do so is in the best interests of the child. Subject to best interests of child

(3) A provision in a separation agreement whether made before or after this section comes into force whereby any right of a spouse is dependent upon remaining chaste is void, but this subsection shall not be construed to affect a contingency upon remarriage or cohabitation with another. Dum casta clauses

56. Where a domestic contract provides that specific gifts made to one or both parties are not disposable or encumberable without the consent of the donor, the donor shall be deemed to be a party to the contract for the purpose of the enforcement or any amendment of the provision. Rights of donors of gifts

57. The manner and formalities of making a domestic contract and its essential validity and effect are governed by the proper law of the contract, except that, Contracts made outside Ontario

(a) a contract for which the proper law is that of a jurisdiction other than Ontario, is also valid and enforceable in Ontario if entered into in accordance with the internal law of Ontario; and

(b) subsection 3 of section 18 and section 55 apply in Ontario to contracts for which the proper law is that of a jurisdiction other than Ontario.

58.—(1) Where a man and a woman who are not spouses enter into an agreement for the payment of the expenses of prenatal care and birth in respect of a child or for the support of a child or for both, on the application of a party to the agreement or a children's aid society made to a provincial court (family division) or the Unified Family Court, the court may incorporate the agreement in an order, and Part II applies to the order in the same manner as if it were an order for support made under that Part. Paternity agreements

(2) Where an application is made under subsection 1 and a judge of the court is satisfied that the respondent is Absconding respondent

about to leave Ontario, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent.

Application
to
pre-existing
agreements

(3) This section applies to agreements referred to in subsection 1 that were made before this Part comes into force.

Application
of Act to
pre-existing
contracts

59.—(1) A separation agreement or marriage contract validly made before this Part comes into force shall be deemed to be a domestic contract for the purposes of this Act.

Contracts
entered into
before
Part comes
into force

(2) Where a domestic contract is entered into in accordance with this Part before this Part comes into force and,

(a) the contract or any part would be valid if entered into after this Part comes into force; and

(b) the contract or part is entered into in contemplation of the coming into force of this Part,

the contract or part is not invalid for the reason only that it was entered into before this Part comes into force.

Idem

(3) Where pursuant to an understanding or agreement entered into before this Part comes into force by spouses who are living separate and apart, property is transferred, between them, the transfer is effective as if made pursuant to a domestic contract.

PART V

DEPENDANTS' CLAIM FOR DAMAGES

Right of
dependants
to sue in
tort

60.—(1) Where a person is injured or killed by the fault or neglect of another under circumstances where the person is entitled to recover damages, or would have been entitled if not killed, the spouse, as defined in Part II, children, grandchildren, parents, grandparents, brothers and sisters of the person are entitled to recover their pecuniary loss resulting from the injury or death from the person from whom the person injured or killed is entitled to recover or would have been entitled if not killed, and to maintain an action for the purpose in a court of competent jurisdiction. R.S.O. 1970, c. 164, s. 3 (1), *amended*.

Contributory
negligence

(2) In an action under subsection 1, the right to damages is subject to any apportionment of damages due to contributory fault or neglect of the person who was injured or killed. *New.*

SECTION 59. Separation agreements and marriage contracts entered into before this Act comes into force are valid, and subsisting affiliation agreements and separation agreements are preserved.

SECTIONS 60 TO 64. This Part replaces *The Fatal Accidents Act* and extends that Act to cover non-fatal injuries, as recommended by the Ontario Law Reform Commission in Part I of its Report on Family Law. It also replaces the actions for loss of consortium and loss of services of a child (see section 69).

With the abolition of the husband's property in the services of his wife and the parent's property in the services of a child, and the creation of a new, qualified obligation of support under this Act, a new basis is created on which family members can recover expenses they incur for the benefit of an injured person. This section will allow them to recover the same kind of pecuniary loss as can now be recovered under *The Fatal Accidents Act*.

Section 60 extends the right to claim to a broader class of related person than under *The Fatal Accidents Act*. Subsection 2 codifies the case law under *The Fatal Accidents Act*.

The following sections are based on the provisions of that Act and require all claimants to join in one action. Insurance payments are not to be considered in assessing damages. The \$800 limit on funeral expenses is removed to allow recovery of reasonable funeral expenses actually incurred.

(3) Not more than one action lies under subsection 1 for and in respect of the same occurrence, and no such action shall be brought after the expiration of two years from the time the cause of action arose. R.S.O. 1970, c. 164, s. 5; 1975, c. 38, s. 1. One action and limitation of actions

61.—(1) An action under subsection 1 of section 60 in respect of a person who is killed shall be commenced by and in the name of the executor or administrator of the deceased for the benefit of the persons entitled to recover under subsection 1 of section 60. R.S.O. 1970, c. 164, s. 3, *part, amended*. Executor to sue where death

(2) If there is no executor or administrator of the deceased, or if there is an executor or administrator and no such action is, within six months after the death of the deceased, brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by the executor or administrator. When action may be brought by persons beneficially interested

(3) Every action so brought is for the benefit of the same persons and is subject to the same regulations and procedure, as nearly as may be, as if it were brought by the executor or administrator. R.S.O. 1970, c. 164, s. 7. Regulations and procedure in such case

62.—(1) Where an action is commenced under section 60, the plaintiff shall, in his statement of claim, name and join the claim of any other person who is entitled to maintain an action under section 60 in respect of the same injury or death and thereupon such person becomes a party to the action. Joining claims

(2) A person who commences an action under section 60 shall file with the statement of claim an affidavit stating that to the best of his knowledge, information and belief the persons named in the statement of claim are the only persons who are entitled or claim to be entitled to damages under section 60. R.S.O. 1970, c. 164, s. 6 (1, 2), *amended*. Affidavit

63.—(1) The defendant may pay into court one sum of money as compensation for his fault or neglect to all persons entitled to compensation without specifying the shares into which it is to be divided. R.S.O. 1970, c. 164, s. 4. How money may be paid into court

(2) Where the compensation has not been otherwise apportioned, a judge may, upon application, apportion it among the persons entitled. Apportionment

When pay-
ment may
be
postponed

(3) The judge may in his discretion postpone the distribution of money to which minors are entitled and may direct payment from the undivided fund. R.S.O. 1970, c. 164, s. 8.

Assessment
of damages,
insurance

64.—(1) In assessing the damages in an action brought under this Part, the court shall not take into account any sum paid or payable as a result of the death or injury under a contract of insurance.

Funeral
expenses

(2) For the purposes of this Part, damages may be awarded for reasonable expenses actually incurred for the burial of the person in respect of whose death the action is brought. R.S.O. 1970, c. 164, s. 3 (2, 3), *amended*.

PART VI

AMENDMENTS TO THE COMMON LAW AND STATUTE LAW

Unity of legal
personality
abolished

65.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

Capacity of
married
person

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person. 1975, c. 41, s. 1 (1, 2).

Idem

(3) Without limiting the generality of subsections 1 and 2,

(a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;

(b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman; 1975, c. 41, s. 1 (3), *part*.

(c) the same rules shall be applied to determine the domicile of a married woman as for a married man.

Purpose
of subss.
1, 2

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed. 1975, c. 41, s. 1 (4).

Actions
between
parent and
child

66. No person shall be disentitled from bringing an action or other proceeding against another for the reason

SECTION 65. This section formerly appeared as section 1 (1, 2, 4) of *The Family Law Reform Act, 1975*. Subsection 3 (c) is new.

SECTION 66. This section formerly appeared as section 3 of *The Family Law Reform Act, 1975*.

SECTION 67. This section formerly appeared as section 4 of *The Family Law Reform Act, 1975*.

SECTION 68. The domicile of a minor is no longer dependent automatically on the domicile of the father alone. A minor who is or has been married is capable of acquiring a domicile as if an adult.

SECTION 69. This section abolishes several old and little used common law actions, as recommended by the Ontario Law Reform Commission in Part I of its Report on Family Law. The loss of consortium and loss of services actions are replaced by sections 60 to 64. Subsection 5 results from the abolition of the seduction action.

only that they stand in the relationship of parent and child.
1975, c. 41, s. 3.

67. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. 1975, c. 41, s. 4. Recovery for prenatal injuries

68.—(1) Subject to subsection 2, a child who is a minor, Domicile of minors

- (a) takes the domicile of his or her parents, where both parents have a common domicile;
- (b) takes the domicile of the parent with whom the child habitually resides, where the child resides with one parent only;
- (c) takes the domicile of the father, where the domicile of the child cannot be determined under clause *a* or *b*;
- (d) takes the domicile of the mother, where the domicile of the child cannot be determined under clause *c*.

(2) The domicile of a minor who is or has been a spouse shall be determined in the same manner as if the minor were of full age. Idem

69.—(1) No action shall be brought for criminal conversation or for any damages resulting therefrom or from adultery. Criminal conversation abolished

(2) No action shall be brought by a married person for the enticement or harbouring of the spouse of such person or for any damages resulting therefrom. Enticement and harbouring of spouse abolished

(3) No action shall be brought by a married person for the loss of the consortium of his or her spouse or for any damages resulting therefrom. Loss of consortium abolished

(4) No action shall be brought by a parent for the enticement, harbouring, seduction or loss of services of his or her child or for any damages resulting therefrom. Enticement, harbouring, seduction, loss of services of child abolished

(5) *The Seduction Act*, being chapter 428 of the Revised Statutes of Ontario, 1970 and paragraph 30 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed. R.S.O. 1970, c. 428; 1971, c. 98, Sched., par. 30, repealed

R.S.O. 1970,
c. 228, s. 59,
amended

(6) Section 59 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is amended by striking out "criminal conversation, seduction" in the first line.

Dower
abolished

70.—(1) The common law right of a widow to dower is hereby abolished.

R.S.O. 1970,
c. 135;
1971, c. 98,
Sched.,
par. 11,
repealed

(2) *The Dower Act*, being chapter 135 of the Revised Statutes of Ontario, 1970, and paragraph 11 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed.

R.S.O. 1970,
c. 152, s. 28 (2),
repealed

(3) Subsection 2 of section 28 of *The Execution Act*, being chapter 152 of the Revised Statutes of Ontario, 1970, is repealed.

Vested
right to
dower

(4) Subsections 1, 2 and 3 do not apply in respect of a right to dower that has vested before subsections 1 and 2 come into force.

Refund of
indemnity
held by
accountant
for dower

(5) Where money has been paid into court as an indemnity in respect of a right to dower that has not vested before this section comes into force, the husband of the person in respect of whose dower right the money was paid into court is entitled to be paid the money upon application to the accountant of the court, without order.

Alimony
abolished

71.—(1) The right of a married woman to alimony under any law existing before this section comes into force is hereby abolished.

Continuation
of action
commenced

(2) Where an action for alimony is commenced before subsection 1 comes into force and no evidence has been heard in the action before this Act comes into force, other than in respect of an interim order, the action shall be deemed to be an application under Part II subject to such directions as the court considers appropriate.

Polygamous
marriages

72. This Act applies to persons whose marriage was actually or potentially polygamous if the marriage was celebrated in a jurisdiction whose system of law recognizes the marriage as valid.

R.S.O. 1970,
c. 64, s. 27 (4),
amended

73.—(1) Subsection 4 of section 27 of *The Child Welfare Act*, being chapter 64 of the Revised Statutes of Ontario, 1970, is amended by striking out "*The Deserted Wives' and Children's Maintenance Act*" and inserting in lieu thereof "*Part II of The Family Law Reform Act, 1978*".

SECTION 70. Because of the rights conferred on husbands and wives under Parts I and III, dower is abolished. Subsection 4 preserves vested rights of dower where the husband dies before this Act comes into force. Where money has been paid into court in respect of an inchoate dower interest, the husband is entitled to recover the money. Subsections 2 and 3 repeal statutory references to dower.

The widower's right of curtesy is abolished by *The Succession Law Reform Act, 1977*.

SECTION 71. The alimony action is abolished, as it is replaced by Part II. Applications to vary existing alimony orders are to be made under section 21. Alimony actions that have not come to trial are converted into applications for support under Part II.

SECTION 72. The obligations and remedies under this Act are not denied for the reason that the marriage is polygamous.

SECTION 73. Part III of *The Child Welfare Act* is replaced by Part II and section 58.

SECTION 74. *The Children's Maintenance Act* is replaced by Part II.

SECTION 75. The amendment is consequential to section 30 (2).

SECTION 76. *The Deserted Wives' and Children's Maintenance Act* is replaced by Part II.

SECTION 77. *The Employment Standards Act, 1974* is amended to extend the protection against dismissal or suspension in respect of garnishment of wages to cover attachment of wages under section 30 of this Act.

SECTION 78. Sections 1 to 4 of *The Family Law Reform Act, 1975* are incorporated in or replaced by this Act. See sections 6, 7, 65, 66 and 67.

SECTION 79. *The Fatal Accidents Act* is incorporated in sections 60 to 64.

SECTION 80. Provisions of *The Infants Act* relating to support and marriage contracts are repealed, as they are replaced by Part II and Part IV, respectively.

(2) Part III of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, Schedule, paragraph 6, subparagraph ii, 1972, chapter 109, section 6, 1973, chapter 75, section 5 and 1975, chapter 1, sections 25, 26, 27 and 28, is repealed. Part III,
repealed

74. *The Children's Maintenance Act*, being chapter 67 of the Revised Statutes of Ontario, 1970 and subsection 2 of section 18 of *The Age of Majority and Accountability Act*, 1971, being chapter 98, are repealed. R.S.O. 1970,
c. 67;
1971, c. 98,
s. 18 (2),
repealed

75. Section 4 of *The Creditors Relief Act*, being chapter 97 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: R.S.O. 1970,
c. 97, s. 4 (9),
amended

(9) This section does not apply to an attachment made under section 30 of *The Family Law Reform Act*, 1978. 1978, c. ...
exempted

76. *The Deserted Wives' and Children's Maintenance Act*, being chapter 128 of the Revised Statutes of Ontario, 1970, subsection 1 of section 18 of *The Age of Majority and Accountability Act*, 1971, being chapter 98, and *The Deserted Wives' and Children's Maintenance Amendment Act*, 1973, being chapter 133, are repealed. R.S.O. 1970,
c. 128,
1971, c. 98,
s. 18 (1);
1973, c. 133,
repealed

77. Section 9 of *The Employment Standards Act*, 1974, being chapter 112, is repealed and the following substituted therefor: 1974, c. 122,
s. 9,
re-enacted

9. No employer shall dismiss or suspend an employee on the ground that garnishment proceedings are or may be taken against the employee or that an attachment order under section 30 of *The Family Law Reform Act*, 1978 has been or may be made against the employee. Garnish-
ment or
attachment
of wages

1978, c. ...

78. Sections 1, 2, 3 and 4 of *The Family Law Reform Act*, 1975, being chapter 41, are repealed. 1975, c. 41,
ss. 1-4,
repealed

79. *The Fatal Accidents Act*, being chapter 164 of the Revised Statutes of Ontario, 1970, *The Fatal Accidents Amendment Act*, 1973, being chapter 16, and *The Fatal Accidents Amendment Act*, 1975, being chapter 38, are repealed. R.S.O. 1970,
c. 164;
1973, c. 16;
1975, c. 38,
repealed

80.—(1) *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by striking out, R.S.O. 1970,
c. 222,
amended

- (a) subsection 4, subsection 4a, as enacted by the Statutes of Ontario, 1971, chapter 98, section 18, and subsection 5 of section 1;
- (b) subsection 2 of section 2;
- (c) sections 10, 13 and 14; and
- (d) section 15, as re-enacted by the Statutes of Ontario, 1971, chapter 98, section 16.

R.S.O. 1970,
s. 18 (3),
Sched., par. 14,
subpar. 1,
repealed

(2) *The Age of Majority and Accountability Act, 1971*, being chapter 98, is amended by striking out,

- (a) section 10;
- (b) subsection 3 of section 18; and
- (c) subparagraph i of paragraph 14 of the Schedule.

R.S.O. 1970,
c. 228, s. 81,
repealed

81.—(1) Subject to subsection 2, section 81 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed.

Continu-
ance for
existing
judgments

(2) The provision repealed by subsection 1 remains in force in respect of a judgment for alimony in an action commenced before this section comes into force.

R.S.O. 1970,
c. 262, ss. 1, 12,
repealed

82. Sections 1 and 12 of *The Married Women's Property Act*, being chapter 262 of the Revised Statutes of Ontario, 1970, are repealed.

R.S.O. 1970,
c. 265, ss. 1-5,
8;
1971, c. 98,
s. 18 (4),
repealed

83. Sections 1, 2, 3, 4, 5 and 8 of *The Matrimonial Causes Act*, being chapter 265 of the Revised Statutes of Ontario, 1970 and subsection 4 of section 18 of *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed.

R.S.O. 1970,
c. 336,
repealed

84. *The Parents' Maintenance Act*, being chapter 336 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,
c. 342,
s. 24,
amended

85. Section 24 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970 is amended by adding thereto the following subsection:

Application
of subs. 1

- (2) Subsection 1 does not apply to the execution, seizure or attachment of moneys payable under a pension plan in satisfaction of an order for support under *The Family Law Reform Act, 1978*.

1978. c. . . .

SECTION 81. The repeal of section 81 of *The Judicature Act*, which allows the registration of alimony orders against land, results from the abolition of alimony in section 71.

SECTION 82. The remaining sections of *The Married Women's Property Act* are repealed, as they are replaced by sections 6 and 7.

SECTION 83. Provisions of *The Matrimonial Causes Act* relating to support on the annulment of a marriage are repealed, as they are replaced by Part II.

SECTION 84. *The Parents' Maintenance Act* is replaced by Part II.

SECTION 85. *The Pension Benefits Act* is amended to make pensions available to satisfy a support order.

SECTION 86. The repealed provision allows support orders made in the Supreme Court to be filed for enforcement in the provincial court (family division). This is provided for in section 27. The repealed provision remains in force for orders made in actions begun before this Act comes into force.

SECTION 87. This amendment is made to bring the terminology in *The Reciprocal Enforcement of Maintenance Act* into line with that used in this Act.

SECTION 88. The provision of *The Statute of Frauds* relating to marriage contracts is replaced by section 54 (1).

SECTION 89. No action or proceeding under the repealed or abolished provisions may be begun after this Act comes into force.

86.—(1) Subject to subsection 2, section 25 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 369, s. 25, repealed

(2) Every order or judgment filed under section 25 of *The Provincial Courts Act* before subsection 1 comes into force shall be deemed to have been filed under section 27 of this Act with the request therein mentioned. Transition for existing orders R.S.O. 1970, c. 369

87.—(1) *The Reciprocal Enforcement of Maintenance Orders Act*, being chapter 403 of the Revised Statutes of Ontario, 1970, is amended by striking out “summons” in each case where it appears and inserting in lieu thereof “notice of application”. R.S.O. 1970, c. 403, amended

(2) Subsection 3 of section 2 of the said Act is amended by striking out “*The Deserted Wives' and Children's Maintenance Act*” and inserting in lieu thereof “Part II of *The Family Law Reform Act, 1978*”. Idem s. 3 (2), amended

88. Section 4 of *The Statute of Frauds*, being chapter 444 of the Revised Statutes of Ontario, 1970, is amended by striking out “any agreement made upon consideration of marriage, or upon” in the fifth and sixth lines. R.S.O. 1970, c. 444, s. 4, amended

89. Sections 69, 73, 74, 76, 79, 80, 82, 83 and 84 apply in all cases when they come into force except in cases where an action or proceeding was commenced under the abolished, repealed or amended provision before that date. Application of ss. 69, 73, 74, 76, 79, 80, 82, 83 and 84

GENERAL

90. The Lieutenant Governor in Council may make regulations respecting any matter required to be or referred to as prescribed by the regulations. Regulations

91. This Act comes into force on the 31st day of March, 1978. Commencement

92. The short title of this Act is *The Family Law Reform Act, 1978*. Short title

BILL 59

An Act to reform the Law respecting
Property Rights and Support Obligations
between Married Persons and in other
Family Relationships

1st Reading

February 21st, 1978

2nd Reading

February 21st, 1978

3rd Reading

THE HON. R. McMURTRY
Attorney General

(*Government Bill*)

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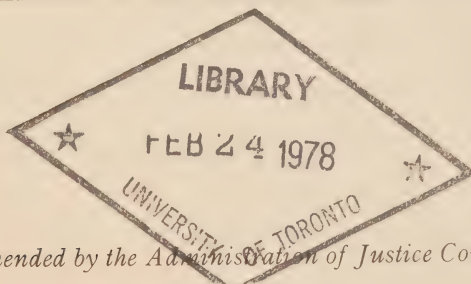
BILL 59

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to reform the Law respecting
Property Rights and Support Obligations between
Married Persons and in other Family Relationships**

THE HON. R. MCMURTRY
Attorney General



(Reprinted as amended by the Administration of Justice Committee)

TORONTO

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EXPLANATORY NOTES

SECTION 1. The definition of "child" allows children born outside marriage and persons treated as a child of the family to claim support from their parents under Part II or to benefit from an order respecting property under section 6 (*d*).

The definition of "court" permits claims under Parts I to IV to be brought in the new Unified Family Court, a provincial court (family division), a county or district court or the Supreme Court.

The definition of "parent" corresponds with the meaning of "child".

The definition of "spouse" ensures that parties to a marriage subsequently found to be void are covered by this Act.

BILL 59

1978

**An Act to reform the Law respecting
Property Rights and Support Obligations
between Married Persons and in other
Family Relationships**

WHEREAS, it is desirable to encourage and strengthen Preamble
the role of the family in society;

AND WHEREAS for that purpose it is necessary to recognize the equal position of spouses as individuals within marriage and to recognize marriage as a form of partnership;

AND WHEREAS in support of such recognition it is necessary to provide in law for the orderly and equitable settlement of the affairs of the spouses upon the breakdown of the partnership; and to provide for other mutual obligations in family relationships, including the equitable sharing by parents of responsibility for their children:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "child" means a child born within or outside marriage, subject to sections 83 and 85 of *The Child Welfare Act* (which relate to the effect of adoption), and includes a person whom the parent has demonstrated a settled intention to treat as a child of his or her family, but does not include a child placed in a foster home for consideration by a person having lawful custody; R.S.O. 1970,
c. 64
- (b) "cohabit" means to live together in a conjugal relationship, whether within or outside marriage;
- (c) "court" means a provincial court (family division), the Unified Family Court, a county or district court or the Supreme Court;

- (d) “domestic contract” means a domestic contract as defined in Part IV;
- (e) “parent” means the father or mother of a child, and includes a person who has demonstrated a settled intention to treat a child as a child of his or her family, but does not include a person in whose home a child was placed as a foster child for consideration by a person having lawful custody;
- (f) “spouse” means either of a man and woman who,
- (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
 - (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year.

Combining of
application

2.—(1) Where, in an application under any provision of this Act, it appears to the court that for the appropriate determination of the affairs of the spouses it is necessary or desirable to have other matters first or simultaneously determined, the court may direct that the application stand over until such other applications are brought or determined as the court considers appropriate.

All
proceedings
in one court

(2) Except as otherwise provided, where an application is made to a court under this Act, no person who is a party to the proceeding shall make an application under this Act to any other court, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

Applications

(3) An application under this Act may be made in the manner prescribed by the rules of the court or in another proceeding.

Capacity
of minors

(4) A minor who is a spouse has capacity to commence, conduct and defend a proceeding under this Act without the intervention of a next friend or guardian *ad litem* and give any consent required or authorized by this Act.

Extension
of times

(5) The court may extend any time prescribed by this Act where the court is satisfied that,

SECTION 2. Subsection 1 permits a court to adjourn the hearing of a claim under this Act where it finds that all of the issues necessary for it to make a proper decision have not been determined. For example, an application to divide property could be adjourned to allow the bringing of a support application, and the two applications could be heard together.

Subsection 2 requires all claims under this Act between the same parties to be brought in the same court, and allows the transfer of an application to another court if the first court does not have jurisdiction to deal with all the issues.

 Subsection 5 allows a court to permit extensions of times prescribed by the Act. 

Subsection 7 allows the court to make orders on the consent of the parties, without the need for a hearing.

Subsection 9 provides that a domestic contract (marriage contract, cohabitation agreement or separation agreement) made under Part IV prevails over the provisions of Parts I to III, subject to the limitation of sections 18 (4) and 55.

Subsection 10 requires registration of orders affecting title to real property.

SECTION 3. The provincial court (family division) does not have jurisdiction under this Part.

The definition of "family assets" includes property held for the benefit of a spouse by a corporation, trust, power of appointment or revocable gift. The definition does not include land around the matrimonial home where that land is used for farming or other business purposes and is not reasonably necessary to the use of the home as a residence. The definition also excludes any property specified in a domestic contract as not being a family asset.

- (a) there are *prima facie* grounds for relief;
- (b) relief is unavailable because of delay that has been incurred in good faith; and
- (c) no substantial prejudice or hardship will result to any person affected by reason of the delay.

(6) The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court may by order prohibit the publication of any matter connected with the application or given in evidence at the hearing.

(7) Upon the consent of the parties in an application under this Act, the court may make any order that the court is otherwise empowered to make by this Act, subject to the duty of the court to have regard to the best interests of children affected.

(8) Any matter provided for in a domestic contract may be incorporated in an order made under this Act.

(9) Where a domestic contract makes provision in respect of a matter that is provided for in this Act, the contract prevails except as otherwise provided in this Act.

(10) Where an order made under this Act affects real property, the order does not affect the acquisition of an interest in the real property by a person in good faith without notice of the order, unless the order is registered in the proper land registry office.

PART I

FAMILY PROPERTY

3. In this Part,

- (a) "court" means a court as defined in section 1 but does not include a provincial court (family division);
- (b) "family assets" means a matrimonial home as determined under Part III and property owned by one spouse or both spouses and ordinarily used or enjoyed by both spouses or one or more of their children while the spouses are residing together for shelter or transportation or for household, educational, recreational, social or aesthetic purposes, and includes,

- (i) money in an account with a chartered bank, savings office, credit union or trust company where the account is ordinarily used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes,
- (ii) where property owned by a corporation or trustee would, if it were owned by a spouse, be a family asset, shares in the corporation or an interest in the trust owned by the spouse having a market value equal to the value of the benefit the spouse has in respect of the property,
- (iii) property over which a spouse has, either alone or in conjunction with another person, a power of appointment exercisable in favour of himself or herself, if the property would be a family asset if it were owned by the spouse, and
- (iv) property disposed of by a spouse but over which the spouse has, either alone or in conjunction with another person, a power to revoke the disposition or a power to consume, invoke or dispose of the property, if the property would be a family asset if it were owned by the spouse,

but does not include property that the spouses have agreed by a domestic contract is not to be included in the family assets;

- (c) "property" means real or personal property or any interest therein.

Division of
family
assets

4.—(1) Subject to subsection 4, where a decree *nisi* of divorce is pronounced or a marriage is declared a nullity or where the spouses are separated and there is no reasonable prospect of the resumption of cohabitation, each spouse is entitled to have the family assets divided in equal shares notwithstanding the ownership of the assets by the spouses as determinable for other purposes and notwithstanding any order under section 7.



Application
to court

(2) The court may, upon the application of a person who is the spouse of another, determine any matter respecting the division of family assets between them.

Effect of
death of
spouse

(3) The rights under subsection 1 are personal as between the spouses but any application commenced under subsection

SECTION 4. This section gives a spouse the right to have the family assets divided where the marriage has broken down. The division can be accomplished by agreement or by court order. The family assets will be divided equally notwithstanding which spouse is the owner of them, even though that ownership has been determined under section 7, unless one of the spouses can satisfy the court that an equal division of family assets would be inequitable in view of the enumerated factors. Once satisfied, the court can divide the family assets unequally or divide other property of the spouse, including business property. The underlying purpose of the section is set out in subsection 6.

 SECTION 5. A statement of property is required on an application for division of family assets in the same manner as a statement of financial information under section 23 on an application for support. 


2 before the death of a spouse may be continued by or against the estate of the deceased spouse.

(4) The court may make a division of family assets resulting in shares that are not equal where the court is of the opinion that a division of the family assets in equal shares would be inequitable, having regard to, Variation of division


- (a) any agreement other than a domestic contract;
- (b) the duration of the period of cohabitation under the marriage;
- (c) the duration of the period during which the spouses have lived separate and apart;
- (d) the date when the property was acquired;
- (e) the extent to which property was acquired by one spouse by inheritance or by gift; or
- (f) any other circumstance relating to the acquisition, disposition, preservation, maintenance, improvement or use of property rendering it inequitable for the division of family assets to be in equal shares.

(5) Where, in the opinion of the court, a spouse has unreasonably impoverished the family assets or the result of a division of the family assets would be inequitable in all the circumstances having regard to the considerations set out in clauses *a* to *f* of subsection 4, the court may make a division of any property that is not a family asset. Property other than family assets

(6) The purpose of this section is to recognize that inherent in the marital relationship there is mutual contribution by the spouses, whether financial or otherwise, to the family welfare, entitling each spouse to an equal division of the family assets upon termination of the marriage, subject to the equitable considerations set out in subsections 4 and 5. Purpose

 5.—(1) Where an application is made under section 4, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of all property of the party in the manner and form prescribed by the rules of the court. Statement of property

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection 1 would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the Order for sealing statement

hearing be treated as confidential and not form part of the public record. 

Idem

6. In an application under section 4, the court may order,

- (a) that the title to any specified property directed to a spouse in the division be transferred to or in trust for or vested in the spouse whether absolutely, for life or for a term of years;
- (b) the partition or sale of any property;
- (c) that payment be made out of the proceeds of sale to one or both spouses, and the amount thereof;
- (d) that any property forming part of the share of either or both spouses be transferred to or in trust for or vested in a child to whom a spouse owes an obligation to provide support;
- (e) that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property; and
- (f) that either spouse pay to the other such sum as is set out in the order for the purpose of adjusting the division,

and may make such other orders or directions as are ancillary thereto.

Determin-
ation of
questions of
title between
married
persons

7. Any person may apply to the court for the determination of any question between that person and his or her spouse or former spouse as to the ownership or right to possession of any particular property, except where an application or an order has been made respecting the property under section 4 or 6, and the court may,

- (a) declare the ownership or right to possession;
- (b) where the property has been disposed of, order payment in compensation for the interest of either party;
- (c) order that the property be partitioned or sold for the purpose of realizing the interests therein; and
- (d) order that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property,

SECTION 6 allows an application to court to determine the mechanics of the division of the family assets or other property subject to division. The powers of the court include the power to order partition or sale. Recourse to *The Partition Act* will be unnecessary.

SECTION 7. This section is based on and replaces section 12 of *The Married Women's Property Act*. It allows applications to determine ownership or the right to possession of particular pieces of property, and is not restricted to a marriage breakdown situation. This section is not available where an application under section 4 has been made in respect of the same property. The court may order compensation for a spouse if the other has disposed of the property in question. The court has the power to order partition, so that recourse to *The Partition Act* will not be necessary.

SECTION 8. Is based on section 1 (3) (c) of *The Family Law Reform Act, 1975* and extends that provision so as to allow the court to recognize the spouse's contribution to particular property.

SECTION 9. This section provides a mechanism for enforcing an order charging property.

SECTION 11. This provision formerly appeared as section 1 (3) (d) of *The Family Law Reform Act, 1975*.

and may make such other orders or directions as are ancillary thereto.

8. Where one spouse or former spouse has contributed work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of property, other than family assets, in which the other has or had an interest, upon application, the court may by order,

Contribution
to property

- (a) direct the payment of an amount in compensation therefor; or
- (b) award a share of the interest of the other spouse or former spouse in the property appropriate to the contribution,

and the court shall determine and assess the contribution without regard to the relationship of husband and wife or the fact that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances. 1975, c. 41, s. 1 (3) (c), *amended*.

9. In or pending an application under section 4, 7 or 8, the court may make such interim order as it considers necessary for restraining the dissipation of the property and for the possession, delivering up, safekeeping and preservation of the property.

Interim
orders for
preservation

10. Where a court orders security for the performance of any obligation under this Part or charges a property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge.

Realization
of security

11.—(1) The rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that,

Presump-
tions

- (a) the fact that property is placed or taken in the name of spouses as joint tenants is *prima facie* proof that each spouse is intended to have on a severance of the joint tenancy a one-half beneficial interest in the property; and
- (b) money on deposit in a chartered bank, savings office, credit union or trust company in the name of both

spouses shall be deemed to be in the name of the spouses as joint tenants for the purposes of clause *a*. 1975, c. 41, s. 1 (3) (*d*), *amended*.

Application

(2) Subsection 1 applies notwithstanding that the event giving rise to the presumption occurred before this section comes into force.

Application of Part

12. This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before this Part comes into force; or
- (b) the property in issue was acquired before this Part comes into force,

but does not apply in respect of property rights to which a claim has been made in a proceeding that was commenced before this Part comes into force.

Conflict of laws

13.—(1) The division of family assets and the ownership as between spouses of movable property wherever situate are governed by the internal law of the place where both spouses had their last common habitual residence or, where there is no place where the spouses had a common habitual residence, by the law of Ontario.

Idem

(2) The ownership of immovable property as between spouses is governed by the internal law of the place where the land is situated, but where the law of Ontario is applicable respecting the division of family assets, the value of the property may be taken into consideration for the purposes of section 4.

PART II

SUPPORT OBLIGATIONS

Interpretation

14. In this Part,

- (a) “dependant” means a person to whom another has an obligation to provide support under this Part;
- (b) “spouse” means a spouse as defined in section 1, and in addition includes,
 - (i) either of a man and woman not being married to each other who have cohabited,

- 1. continuously for a period of not less than five years, or

SECTION 12. This Part applies to persons married and to property owned when this Act comes into force, except where the spouses have already started a court proceeding over property rights.

SECTION 13. This Part will apply to spouses who do not have a marriage contract [see section 2 (9)] and whose last common habitual residence was in Ontario or who never had a common habitual residence. Where the spouses' last common habitual residence was outside Ontario, the ownership of their movable property and their right to divide family assets will be governed by the law of that other jurisdiction.

The ownership of spouses' land is governed by the law of the place where the land is situated. Where this Part applies to the spouses, land outside Ontario cannot be ordered sold or partitioned by the court. However, the court can take the value of that land into account and give a smaller share of movable property or land in Ontario to the spouse who owns the foreign land, in order to adjust the division of family assets.

SECTION 14. The definition of "spouse" is broadened to include a "common law" spouse as defined.

SECTION 15. This section creates an obligation on spouses to be self-supporting and to support the other spouse, depending on ability to provide support and the needs of the other spouse. Matrimonial misconduct will no longer be the basis for making or denying an award of support, but see section 18 (6).

SECTION 16. A parent has an obligation to support a child up to 18 years of age unless the child is over sixteen years and has withdrawn from parental control.

SECTION 17. A corresponding obligation is placed on children of the age of 18 or over to support their parents when in need, in accordance with ability. This section replaces the existing *Parents' Maintenance Act*, which imposes a similar obligation.

SECTION 18. A parent, or a public agency or children's aid society providing welfare or family benefits will be able to claim support for a dependant.

Subsection 5 contains a check-list to assist the court in determining the needs of the dependant and the ability to pay of the person from whom support is claimed. The court is directed to take into consideration any loss of earning capacity or opportunity for advancement occasioned by the responsibilities assumed during cohabitation and may include assistance to a spouse to attain financial independence.

2. in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year, and

- (ii) either of a man and woman between whom an order for support has been made under this Part or an order for alimony or maintenance has been made before this Part comes into force.

15. Every spouse has an obligation to provide support for himself or herself and for the other spouse, in accordance with need, to the extent that he or she is capable of doing so. Obligation of spouses for support

16.—(1) Every parent has an obligation, to the extent the parent is capable of doing so, to provide education and support, in accordance with need, for his or her child who is unmarried and is under the age of eighteen years. Obligation of parent to support child

(2) The obligation under subsection 1 does not extend to a child who, being of the age of sixteen years or over, has withdrawn from parental control. Idem

17. Every child who is not a minor has an obligation to provide support, in accordance with need, for his or her parent who has cared for and provided support for the child, to the extent that the child is capable of doing so. Obligation of child to support parent

18.—(1) A court may, upon application, order a person to provide support for his or her dependants and determine the amount thereof. Order for support

(2) An application for an order for the support of a dependant may be made by the dependant or a parent of the dependant or under subsection 3. Applicants

(3) An application for an order for the support of a dependant who is a spouse may be made by, Idem

(a) the Ministry of Community and Social Services in the name of the Minister; or

(b) a municipal corporation, including a metropolitan, district or regional municipality, but not including an area municipality thereof,

if the Ministry or municipality is providing an allowance or benefit in respect of the support of the dependant.

Setting aside
domestic
contract

(4) The court may set aside a provision for support in a domestic contract or paternity agreement and may determine and order support in an application under subsection 1 notwithstanding that the contract or agreement contains an express provision excluding the application of this section,

- (a) where the provision for support or the waiver of the right to support results in circumstances that are unconscionable;
- (b) where the provision for support is to a spouse who qualifies for an allowance for support out of public money; or
- (c) where there has been default in the payment of support under the contract or agreement.

Determin-
ation of
amount

(5) In determining the amount, if any, of support in relation to need, the court shall consider all the circumstances of the parties, including,

- (a) the assets and means of the dependant and of the respondent and any benefit or loss of benefit under a pension plan or annuity;
- (b) the capacity of the dependant to provide for his or her own support;
- (c) the capacity of the respondent to provide support;
- (d) the age and the physical and mental health of the dependant and of the respondent;
- (e) the length of time the dependant and respondent cohabited;
- (f) the needs of the dependant, in determining which the court may have regard to the accustomed standard of living while the parties resided together;
- (g) the measures available for the dependant to become financially independent and the length of time and cost involved to enable the dependant to take such measures;
- (h) the legal obligation of the respondent to provide support for any other person;
- (i) the desirability of the dependant or respondent remaining at home to care for a child;

SECTION 19. The court has broad powers to make the most suitable order or combination of orders regarding support, including the making of both periodic and lump sum orders and the granting of security to ensure payments. The court can also order the respondent to reimburse a public agency for payments it has made to the dependant. The court can provide for the dependant's support after the respondent's death.

If the order is not expressed to survive the respondent, it terminates on death and only 12 months arrears are enforceable.

A support order may be assigned to a public agency paying benefits to the dependant. This allows the agency to continue the steady income of the dependant and leaves the burden of enforcement and the risk of non-payment on the agency.

- (j) a contribution by the dependant to the realization of the career potential of the respondent;
- (k) where the dependant is a child, his or her aptitude for and reasonable prospects of obtaining an education;
- (l) where the dependant is a spouse, the effect on his or her earning capacity of the responsibilities assumed during cohabitation;
- (m) where the dependant is a spouse, whether the dependant has undertaken the care of a child who is of the age of eighteen years or over and unable by reason of illness, disability or other cause to withdraw from the charge of his or her parents;
- (n) where the dependant is a spouse, whether the dependant has undertaken to assist in the continuation of a program of education for a child who is of the age of eighteen years or over and unable for that reason to withdraw from the charge of his or her parents;
- (o) where the dependant is a spouse, any house-keeping, child care or other domestic service performed by the spouse for the family, in the same way as if the spouse were devoting the time spent in performing that service in remunerative employment and were contributing the earnings therefrom to the support of the family; and
- (p) any other legal right of the dependant to support other than out of public money.

(6) The obligation to provide support for a spouse exists Conduct without regard to the conduct of either spouse, but the court may in determining the amount of support have regard to a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship.

19.—(1) In an application under section 18, the court Powers of court may order,

- (a) an amount payable periodically, whether annually or otherwise and whether for an indefinite or limited period, or until the happening of a specified event;
- (b) a lump sum to be paid or held in trust;

- (c) any specified property to be transferred to or in trust for or vested in the dependant, whether absolutely, for life or for a term of years;
- (d) any matter authorized to be ordered under clauses *a* to *d* of subsection 1 of section 45 and subject to subsection 3 thereof;
- (e) that all or any of the moneys payable under the order be paid into court or to any other appropriate person or agency for the benefit of the dependant;
- (f) the payment of support to be made in respect of any period before the date of the order;
- (g) the payment to an agency referred to in subsection 3 of section 18 of any amount in reimbursement for an allowance or benefit granted in respect of the support of the dependant, including an amount in reimbursement for an allowance paid or benefit provided before the date of the order;
- (h) the payment of expenses in respect of the prenatal care and birth of a child;
- (i) that the obligation and liability for support continue after the death of the respondent and be a debt of his or her estate for such period as is fixed in the order;
- (j) that a spouse who has a policy of life insurance as defined in Part V of *The Insurance Act* designate the other spouse or a child as the beneficiary irrevocably; and
- (k) the securing of payment under the order, by a charge on property or otherwise.

R.S.O. 1970.
c. 224

Limitation
on
jurisdiction
of family
court

(2) A provincial court (family division) shall not make an order under clause *b*, *c*, *j* or *k* of subsection 1 except for the provision of necessities or preventing the dependant from becoming a public charge.

Interim
orders

(3) Where an application is made under section 18, the court may make such interim order as the court considers appropriate.

Assignment
of support

(4) An order for support is assignable to an agency referred to in subsection 3 of section 18.

SECTION 20. To avoid having the issue of support before two different courts, an application under this Part is stayed when a divorce is sought and any support order will be made under the *Divorce Act* (Canada). Where support is not before the trial judge as an issue in a divorce, an order under this Part survives the divorce. Under existing law, provincial orders in favour of a child continue but those in favour of a spouse do not.

SECTION 21. An order for support may be varied or ended if there has been a material change of circumstances or new evidence becomes available. The court also has power to wipe out arrears and interest.

If the original order was made by a county or district court, both the original court and another county or district court have jurisdiction to vary the order. The same provision is available for variation by one provincial court (family division) of an order made by another provincial court (family division).

This section applies to the variation of support orders made before this Act takes effect.

SECTION 22. A proposed sale of assets that would defeat a claim or an order for payment of support may be restrained by court order.

(5) Unless an order to provide support otherwise provides, it terminates upon the death of the person having the obligation to provide support, and the liability for amounts under the order coming due and unpaid in the preceding twelve months is a debt of his or her estate. Termination of support order on death

20.—(1) Where an action for divorce is commenced under the *Divorce Act* (Canada), any application for support or custody under this Part that has not been determined is stayed except by leave of the court. Effect of divorce proceedings R.S.C. 1970, c. D-8

(2) Where a marriage is terminated by a decree absolute of divorce or declared a nullity and the question of support was not judicially determined in the divorce or nullity proceedings, an order for support made under this Part continues in force according to its terms. Idem

21.—(1) Where an order for support has been made or confirmed and where the court is satisfied that there has been a material change in the circumstances of the dependant or the respondent or evidence has become available that was not available on the previous hearing, the court may, upon the application of any person named in the order or referred to in subsection 3 of section 18, discharge, vary or suspend any term of the order, prospectively or retroactively, relieve the respondent from the payment of part or all of the arrears or any interest due thereon and make such other order under section 19 as the court considers appropriate in the circumstances referred to in section 18. Review and variation of orders

(2) An application under subsection 1 shall be made to the court that made the order or to a co-ordinate court in another part of Ontario. Court

(3) No application under subsection 1 shall be made within six months after the making of the order for support or the disposition of any other application under subsection 1 in respect of the same order, except by leave of the court. Limitation on applications for review

(4) This section applies to orders for maintenance or alimony made before this section comes into force or in a proceeding commenced before this section comes into force. Existing orders

22. In or pending an application under section 18 or appearance to a notice under section 28, or where an order for support has been made, the court may make such interim or final order as it considers necessary for restraining the disposition or wasting of assets that would impair or defeat the claim or order for the payment of support. Restraining orders

Statement
of financial
affairs

23.—(1) Where an application is made under section 18 or 21, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of financial information in the manner and form prescribed by the rules of the court.

Order for
sealing
statement

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection 1 would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record.

Absconding
respondent
or debtor

24. Where an application is made under section 18 or a notice is issued under section 28 and a judge of the court is satisfied that the respondent or debtor is about to leave Ontario, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent or debtor.

Provisional
orders

25.—(1) Where an application is made under section 18 or 21 in a provincial court (family division) or the Unified Family Court and,

- (a) the respondent in the application fails to appear;
- (b) it appears to the court that the respondent resides in a locality in Ontario that is outside the territorial jurisdiction of the court; and
- (c) in the circumstances of the case, the court is of the opinion that the issues can be adequately determined by proceeding under this section,

the court may proceed in the absence of the respondent and without the statement of the financial affairs of the respondent required by section 23 and in place of a final order may make an order for support that is provisional only and the order has no effect until it is confirmed by the provincial court (family division) or the Unified Family Court in the locality in which the respondent resides.

Transmission
for hearing

(2) Where a provisional order is made under subsection 1, the court making the order shall send to the court having jurisdiction in the locality in which the respondent resides copies of such documents and records, certified in such manner, as are prescribed by the rules of the court.

Show
cause

(3) The court to which the documents and records are sent under subsection 2 shall cause them to be served upon

SECTION 23. Disclosure of financial information will be required of both the applicant and the person from whom support is claimed in order to ascertain need and ability to pay. The court will have discretion to make the disclosure confidential.

SECTION 25. Where appropriate, a provincial court (family division) or the Unified Family Court can make a provisional order against a respondent who lives outside the judicial district and who fails to appear at the hearing. The order is sent to the court having jurisdiction where the respondent lives and has no effect unless that court confirms it. This procedure is adapted from *The Deserted Wives' and Children's Maintenance Act*.

SECTION 26. In order to start a support application or to enforce a support order, the applicant may obtain an order requiring a person such as an employer or public agency, including the Province of Ontario, to provide access to its records for the sole purpose of obtaining the address of a person ordered to pay support.

the respondent together with a notice to file with the court the statement of financial affairs required by section 23 and to appear and show cause why the provisional order should not be confirmed.

(4) At the hearing, the respondent may raise any defence that might have been raised in the original proceedings, but, if on appearing the respondent fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order without variation or with such variation as the court considers proper having regard to all the evidence. Confirmation of order

(5) Where the respondent appears before the court and satisfies the court that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the court where the applicant resides, the court may so remit the case and adjourn the proceedings for that purpose. Adjournment for further evidence

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court that made the order together with a statement of the reasons for so doing, and in that event the court that made the order may dispose of the application in such manner as it considers proper. Where order not confirmed

(7) A certificate certifying copies of documents or records for the purpose of this section and purporting to be signed by the clerk of the court is, without proof of the office or signature of the clerk, admissible in evidence in a court to which it is transmitted under this section as *prima facie* proof of the authenticity of the copy. Certificates as evidence

(8) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have had if the order had been made under section 19. Right of appeal

26.—(1) Where it appears to a court that,

Access to records

- (a) for the purpose of bringing an application under this Part; or
- (b) for the purpose of the enforcement of an order for support, custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts

of the proposed respondent or person against whom the order is made, the court may order any person or public agency to provide the court with such particulars of the address as are contained in the records in its custody and the person or agency shall provide to the court such particulars as it is able to provide.

Section
binds Crown

(2) This section binds the Crown in right of Ontario.

Enforcement
of orders by
family court
clerk

27.—(1) The clerk of the Unified Family Court or of a provincial court (family division), upon the request of a person entitled to support under an order for support or maintenance enforceable in Ontario or other persons or agency mentioned in subsection 3 of section 18 and upon the filing of such material as is prescribed by the rules of the court may enforce the order.

Powers of
court for
enforcement

(2) For the purposes of enforcing an order filed under subsection 1, a provincial court (family division) has the power to issue execution and garnishment in accordance with the rules of the court and section 145 of *The Small Claims Courts Act* and subsection 3 of section 4 of *The Creditors' Relief Act* apply to a garnishment issued by the provincial court (family division).

R.S.O. 1970,
cc. 439, 97

Crown
subject to
attachment
for support
R.S.O. 1970,
c. 365

(3) Notwithstanding section 25 of *The Proceedings Against the Crown Act*, an attachment under subsection 1 of section 30 and any other execution, garnishment or attachment or process in the nature thereof for the payment of an amount owing or accruing under an order for support or maintenance, may be issued against the Crown.

Examination
of debtor

28.—(1) Where there is default in payment under an order for support or maintenance, a clerk of the Unified Family Court or a provincial court (family division) may require the debtor, upon notice,

- (a) to file a statement of financial information referred to in section 23;
- (b) submit to an examination as to assets and means;
and
- (c) appear before the court to explain the default.

Compelling
attendance

(2) If the debtor fails to appear as required after being served with a notice, or if the court is satisfied that the debtor cannot be served or intends to leave Ontario without appearing as required after being served, the court giving the notice may issue a warrant for the arrest of the debtor for the purpose of compelling attendance.

SECTION 27. This section allows support orders made in any court to be filed for enforcement in the new Unified Family Court or the provincial court (family division). It replaces section 25 of *The Provincial Courts Act*. This section recognizes the administrative practice whereby court officials automatically enforce orders in family court.

The provincial court (family division) will have power to enforce support orders by execution and garnishment. Formerly support orders were enforceable in small claims court only up to the monetary jurisdiction of that court.

Garnishee and attachment orders may be obtained against the Crown for support.

SECTION 28. Where a debtor under an order defaults, the debtor can be required to disclose financial particulars and appear before the court to explain the default. The debtor can be arrested if about to abscond. This procedure is adapted from *The Deserted Wives' and Children's Maintenance Act*.

SECTION 29. This procedure exists under *The Deserted Wives' and Children's Maintenance Act*. The power to imprison is made flexible enough to allow for alternatives to imprisonment.

SECTION 30. This section is new. It allows a court order for a continuing deduction at source by the employer in order to satisfy a support order. The attachment would have priority over any other seizure of wages. See also sections 76 and 84.

SECTION 32. This section provides a mechanism for enforcing a secured support order by selling the security.

29.—(1) Where the debtor fails to satisfy the court that the default is owing to his or her inability to pay and where the court is satisfied that all other practicable means that are available under this Act for enforcing payment have been considered, the court may,

Penalty
for
default

- (a) order imprisonment for a term of not more than ninety days to be served intermittently or as ordered by the court; or
- (b) make such other order as may be made upon summary conviction for an offence that is punishable by imprisonment.

(2) The order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order, including the performance of a community service order.

Conditions
of sentence

30.—(1) Where the court considers it appropriate in a proceeding under section 28, the court may make an attachment order directing the employer of the debtor to deduct from any remuneration of the debtor due at the time the order is served on the employer or thereafter due or accruing due such amount as is named in the order and to pay the amounts deducted into court, and section 7 of *The Wages Act* does not apply.

Attachment
of wages

R.S.O. 1970,
c. 486

(2) Where an application is made under section 21, the court may discharge, vary or suspend any term of an order made under subsection 1.

Variation of
attachment

(3) An order under subsection 1 has priority over any other seizure or attachment of wages arising before or after the service of the order.

Priority
of order

31. Where the court considers it appropriate in a proceeding under section 28, the court may order the debtor to give security for the payment of support or may charge any property of the debtor with payment of an amount for the provision of necessities or preventing the dependant from becoming a public charge.

Security
for
payment

32. Where a court orders security for the payment of support under this Part or charges property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge.

Realization
of security

Pledging
credit for
necessaries

33.—(1) During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessities of life, except where the spouse has notified the third party that he or she has withdrawn the authority.

Liability
for
necessaries
of minor

(2) Where a person is entitled to recover against a minor in respect of the provision of necessities for the minor, each parent who has an obligation to support the minor is liable therefor jointly and severally with the minor.

Recovery
between
persons
jointly
liable

(3) Where persons are jointly and severally liable with each other under this section, their liability to each other shall be determined in accordance with their obligation to provide support.

Common
law
supplanted

(4) The provisions of this section apply in place of the rules of common law by which a wife may pledge the credit of her husband.

Order
restraining
harassment

34. Upon application, a court may make an order restraining the spouse of the applicant from molesting, annoying or harassing the applicant or children in the lawful custody of the applicant and may require the spouse of the applicant to enter into such recognizance as the court considers appropriate.

Custody of
children

35.—(1) Upon application, the court may order that either parent or any person have custody of or access to a child in accordance with the best interests of the child and may at any time alter, vary or discharge the order.

Court

(2) An application to alter, vary or discharge the order shall be made to the court that made the order or to a co-ordinate court in another part of Ontario.

Interim
orders

(3) Where an application is made under subsection 1, the court may make such interim order as the court considers appropriate.

Application
to orders
under
R.S.O. 1970,
c. 128

(4) This section applies to orders for custody or access made under *The Deserted Wives' and Children's Maintenance Act*.

Appeal
from
provincial
court (family
division)

36. An appeal lies from an order of the provincial court (family division) under this Part to the county or district court in the county or district in which the provincial court (family division) is situated.

SECTION 33. While living together, either spouse may pledge the credit of the other for necessities unless this authority is specifically withdrawn by notice to the creditor. Both spouses are then jointly liable to the creditor. Similarly, under subsection 2, a creditor may recover necessities provided to a child under 18 from both the parents and the child. The liability as between the spouses, or between parent and child, is determined in accordance with need and ability to pay as set out in sections 15, 16 and 17.

Subsection 4 abolishes the common law agency of cohabitation and agency of necessity, which applied only in favour of a wife.

SECTION 34. This section provides a civil remedy to prevent a spouse from continually harassing and interfering with the other.

SECTION 35. This section provides for the making of a custody order or interim order in favour of either parent in the best interests of the child. The custody order need not be tied to a support order, as is now the case under section 3 of *The Deserted Wives' and Children's Maintenance Act*.

SECTION 36. Appeals are provided for in Acts governing the Supreme Court and county courts. This section is necessary because *The Provincial Courts Act* does not contain provisions for appeals. The appeal procedure will be set out in the rules.

Registered
designation
of
matrimonial
home

41.—(1) Both spouses may, by instrument in the form prescribed by the regulations, designate any property that is a matrimonial home and, upon the registration of the instrument and while there is a designation made by the spouses under this subsection that is not cancelled, any other property that would qualify as a matrimonial home under section 39 and that is not similarly designated ceases to be a matrimonial home.

Extent of
designation

(2) The property that is designated as a matrimonial home under subsection 1 may include any property contiguous to the matrimonial home that is described for the purpose in the instrument.

Cancellation
of
designation

(3) The designation of a matrimonial home under subsection 1 is cancelled upon the registration or deposit of,

- (a) an instrument in the form prescribed by the regulations executed by both spouses;
- (b) a decree absolute of divorce or judgment of nullity;
- (c) an order under section 45 cancelling the designation; or
- (d) proof of death of one of the spouses.

Effect of
cancellation

(4) Upon the cancellation of the designation of a property under subsection 3, the property ceases to be a matrimonial home under section 39.

Revival
of
matrimonial
homes

(5) Upon there ceasing to be a designation under subsection 1, section 39 applies in respect of property that is a matrimonial home.

Alienation of
matrimonial
home

42.—(1) No spouse shall dispose of or encumber any interest in a matrimonial home unless,

- (a) the other spouse joins in the instrument or consents to the transaction;
- (b) the other spouse has released all rights under this Part by a separation agreement;
- (c) the transaction is authorized by court order or an order has been made releasing the property as a matrimonial home; or
- (d) the property is not designated as a matrimonial home under section 41 and an instrument design-

SECTION 41. The spouses may jointly designate one or more properties as matrimonial homes, and thereupon this Part ceases to apply to any property other than those designated. The designation must be registered.

SECTION 42. A spouse may not sell, lease, mortgage or otherwise deal with the matrimonial home unless the non-owning spouse's consent in writing is obtained, a court dispenses with the consent under section 44 or another home has been designated as the matrimonial home. If a spouse deals with the home without consent, the transaction can be set aside unless an innocent third party holds the interest at that time. The affidavit of a spouse is sufficient protection for a bona fide purchaser.

Service of
notice

(2) Any notice to which a spouse is entitled by virtue of subsection 1 shall be deemed to be sufficiently given if served or given personally or by registered mail addressed to the person to whom notice is to be given at his or her usual or last known address or, where none, the address of the matrimonial home, and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing.

Effect of
payments
made by
spouse

(3) Where a spouse makes any payment by way of or on account of redemption or relief against forfeiture under the right conferred by subsection 1, the payment shall be applied in satisfaction of the claim giving rise to the lien, encumbrance, execution or forfeiture.

Continuation
of
proceedings
in absence
of spouse

(4) Notwithstanding any other Act, where a person who commences a proceeding to realize upon a lien, encumbrance or execution or to exercise a forfeiture does not have sufficient particulars of a spouse entitled under subsection 1 for the purposes of the proceeding, and a notice given under subsection 2 is not responded to, the proceeding may continue in the absence of the spouse and without regard to the interest of the spouse and any final order in the proceeding terminates the rights of the spouse under this section.

Powers of
court
respecting
alienation

44. The court may, on the application of a spouse or person having an interest in property, by order,

- (a) determine whether or not property is the matrimonial home and, if so, its extent;
- (b) authorize the disposition or encumbrance of the matrimonial home where the court finds that the spouse whose consent is required,
 - (i) cannot be found or is not available,
 - (ii) is not capable of giving or withholding consent, or
 - (iii) is unreasonably withholding consent,

subject to such terms and conditions including provision of other comparable accommodation or payment in place thereof as the court considers appropriate;

- (c) dispense with any notice required to be given under section 43; and

SECTION 45. The court has power to grant exclusive possession of part or all of the home and contents, but is not to exercise the power unless satisfied that other provision for shelter is inadequate in the circumstances.

- (d) direct the setting aside of any transaction disposing of or encumbering an interest in the matrimonial home contrary to subsection 1 of section 42 and the revesting of the interest or any part of the interest upon such terms and subject to such conditions as the court considers appropriate.

45.—(1) Notwithstanding the ownership of a matrimonial home and its contents, and notwithstanding section 40, the court on application may by order, Order for possession of matrimonial home

- (a) direct that one spouse be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs and release any other property that is a matrimonial home from the application of this Part;
- (b) direct a spouse to whom exclusive possession of a matrimonial home is given to pay such periodic payments to the other spouse as is prescribed in the order;
- (c) direct that the contents of a matrimonial home, or any part thereof, remain in the home for the use of the person given possession;
- (d) fix the obligation to repair and maintain the matrimonial home or to pay other liabilities arising in respect thereof;
- (e) authorize the disposition or encumbrance of the interest of a spouse in a matrimonial home subject to the right to exclusive possession of the other spouse as ordered; and
- (f) where a false affidavit is given under subsection 3 of section 42, direct,

- (i) the person who swore the false affidavit, or
- (ii) any person who knew at the time it was sworn that the affidavit was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

(2) An order may be made under subsection 1 for temporary relief or pending the bringing or disposition of another application under this Act. Temporary possession

Order
where no
property
interest

(3) An order under subsection 1 for exclusive possession may be made only if, in the opinion of the court, other provision for shelter is not adequate in the circumstances or it is in the best interests of a child to do so.

Limitation
on
jurisdiction
of family
court

(4) A provincial court (family division) shall not make an order under clause *b* or *d* of section 44 or clause *e* or *f* of subsection 1.

Variation
of possessory
order

46.—(1) Upon the application of a person named in an order made under clause *a*, *b*, *c* or *d* of subsection 1 of section 45 or the personal representative of such person and where the court is satisfied that there has been a material change in circumstances, the court may discharge, vary or suspend the order.

Variation of
conditions
of sale

(2) Upon the application of a person who is subject to terms and conditions imposed in an order made under clause *b* of section 44 or his personal representative and where the court is satisfied that the terms and conditions are no longer appropriate, the court may discharge, vary or suspend the terms and conditions.

Interim
order for
preservation
of property

47. In an application under this Part, the court may make such interim order as it considers necessary for the delivering up, safekeeping and preservation of the matrimonial home or its contents.

Registration
of order
R.S.O. 1970,
cc. 409, 234

48. An order made under this Part is registrable against land under *The Registry Act* and *The Land Titles Act*.

Application
of Part

49.—(1) This Part applies to matrimonial homes that are situated in Ontario.

Idem

(2) This Part applies notwithstanding that,

(a) the spouses entered into the marriage before this Part comes into force; or

(b) the matrimonial home was acquired before this Part comes into force,

but does not apply to property in respect of which the property rights or right to possession of the spouses have been judicially determined before this Part comes into force, or in respect of which a proceeding to determine such rights has been commenced before this Part comes into force.

SECTION 48. An order for possession may be registered against the land so as to provide notice to third parties.

SECTION 49. This Part applies to all matrimonial homes in Ontario, whether or not the spouses have a marriage contract (see section 55) and whether or not the spouses are otherwise subject to Ontario property law (see section 12). This Part covers persons married and matrimonial homes acquired before this Act comes into force, except where a spouse has applied for an order for possession before this Act is in effect.

SECTIONS 50 TO 53. This Part overcomes the common law rule which held that marriage contracts contemplating a future separation or divorce were void.

The sections create a general category called "domestic contracts", which is made up of marriage contracts, cohabitation agreements and separation agreements. Cohabitation agreements are akin to marriage contracts, but the parties are not married. Only a separation agreement may provide for custody of or access to children.

Court approval must be given to the marriage contract of a minor capable of entering into a marriage. Similarly, court approval is required where a committee enters into a domestic contract on behalf of a spouse who becomes mentally incompetent.

PART IV

DOMESTIC CONTRACTS

50. In this Part,Interpre-
tation

- (a) "cohabitation agreement" means an agreement entered into under section 52;
- (b) "domestic contract" means a marriage contract, separation agreement or cohabitation agreement;
- (c) "marriage contract" means an agreement entered into under section 51;
- (d) "separation agreement" means an agreement entered into under section 53.

51.—(1) Two persons may enter into an agreement, before their marriage or during their marriage while cohabiting, in which they agree on their respective rights and obligations under the marriage or upon separation or the annulment or dissolution of the marriage or upon death, including,

Marriage
contracts

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and
- (d) any other matter in the settlement of their affairs.



(2) Any provision in a marriage contract purporting to limit the rights of a spouse under Part III in respect of a matrimonial home is void.

Rights re
matrimonial
home
excepted

52.—(1) A man and a woman who are cohabiting and not married to one another may enter into an agreement in which they agree on their respective rights and obligations during cohabitation, or upon ceasing to cohabit or death, including,

Cohabitation
agreements

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and

(d) any other matter in the settlement of their affairs.

Effect of
marriage on
agreement

(2) Where the parties to an agreement entered into under subsection 1 subsequently marry, the agreement shall be deemed to be a marriage contract.

Separation
agreements

53. A man and woman who cohabited and are living separate and apart may enter into an agreement in which they agree on their respective rights and obligations, including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children;
- (d) the right to custody of and access to their children; and
- (e) any other matter in the settlement of their affairs.

Form of
contract

54.—(1) A domestic contract and any agreement to amend or rescind a domestic contract are void unless made in writing and signed by the persons to be bound and witnessed.

Capacity
of minor

(2) A minor who has capacity to contract marriage has capacity to enter into a marriage contract or separation agreement that is approved by the court, whether the approval is given before or after the contract is entered into.

Agreement
on behalf of
mentally
incompetent

(3) The committee of a person who is mentally incompetent or, if the committee is the spouse of such person or, if there is no committee, the Public Trustee may, subject to the approval of the court, enter into a domestic contract or give any waiver or consent under this Act on behalf of the mentally incompetent person.

Contracts
subject
to best
interests
of child

55.—(1) In the determination of any matter respecting the support, education, moral training or custody of or access to a child, the court may disregard any provision of a domestic contract pertaining thereto where, in the opinion of the court, to do so is in the best interests of the child.

Dum casta
clauses

(2) A provision in a separation agreement or a provision in a marriage contract to take effect on separation whereby any right of a spouse is dependent upon remaining chaste is void, but this subsection shall not be construed to affect a contingency upon remarriage or cohabitation with another.

SECTION 55. Before separation, a spouse may not contract out of the right to control dealings with the matrimonial home or obtain possession of it. Any provision in a domestic contract respecting a child is to be enforced only if in the child's best interests. Subsection 3 invalidates a *dum casta* clause. See also section 18 (4).



Domestic contracts will also be invalid for any reason that would void another kind of contract, such as fraud, duress or undue influence.

Where a provision is held void, the court will determine under the ordinary law of contract whether the provision can be severed so as to allow enforcement of the remainder of the contract.

SECTION 56. Where a third party makes a gift to either or both spouses, subject to the condition that they do not dispose of it without his consent, and this provision is contained in a marriage contract, the person making the gift can enforce the provision notwithstanding that he was not a party to the original contract.

SECTION 57. A marriage contract may be subject to foreign law. If it is valid under either the foreign law or Ontario law, it will be recognized in Ontario. However, no marriage contract will be enforced to the extent that it contradicts section 55 or 18 (4).

SECTION 58. This section replaces the provisions for affiliation agreements formerly found in Part III of *The Child Welfare Act*. That Part is repealed by section 73.


 (3) A provision in a separation agreement made before ^{Idem} this section comes into force whereby any right of a spouse is dependent upon remaining chaste shall be given effect as a contingency upon remarriage or cohabitation with another. 

56. Where a domestic contract provides that specific gifts made to one or both parties are not disposable or encumberable without the consent of the donor, the donor shall be deemed to be a party to the contract for the purpose of the enforcement or any amendment of the provision. ^{Rights of donors of gifts}

57. The manner and formalities of making a domestic contract and its essential validity and effect are governed by the proper law of the contract, except that, ^{Contracts made outside Ontario}

(a) a contract for which the proper law is that of a jurisdiction other than Ontario, is also valid and enforceable in Ontario if entered into in accordance with the internal law of Ontario;

(b) subsection 4 of section 18 and section 55 apply in Ontario to contracts for which the proper law is that of a jurisdiction other than Ontario; and


 (c) a provision respecting the right to custody of or access to children is not valid or enforceable in Ontario.

58.—(1) Where a man and a woman who are not spouses enter into an agreement for, ^{Paternity agreements}

(a) the payment of the expenses of prenatal care and birth in respect of a child;

(b) support of a child; or

(c) burial expenses of the child or mother,

on the application of a party to the agreement or a children's aid society made to a provincial court (family division) or the Unified Family Court, the court may incorporate the agreement in an order, and Part II applies to the order in the same manner as if it were an order for support made under that Part. 

(2) Where an application is made under subsection 1 and a judge of the court is satisfied that the respondent is about to leave Ontario, the judge may issue a warrant in the ^{1 Absconding respondent}

form prescribed by the rules of the court for the arrest of the respondent.

Capacity of
a minor

(3) A minor who has capacity to contract marriage has capacity to enter into an agreement under subsection 1 that is approved by the court, whether the approval is given before or after the agreement is entered into.

Application
to
pre-existing
agreements

(4) This section applies to agreements referred to in subsection 1 that were made before this Part comes into force.

Application
of Act to
pre-existing
contracts

59.—(1) A separation agreement or marriage contract validly made before this Part comes into force shall be deemed to be a domestic contract for the purposes of this Act.

Contracts
entered into
before
Part comes
into force

(2) Where a domestic contract is entered into in accordance with this Part before this Part comes into force and,

(a) the contract or any part would be valid if entered into after this Part comes into force; and

(b) the contract or part is entered into in contemplation of the coming into force of this Part,

the contract or part is not invalid for the reason only that it was entered into before this Part comes into force.

Idem

(3) Where pursuant to an understanding or agreement entered into before this Part comes into force by spouses who are living separate and apart, property is transferred, between them, the transfer is effective as if made pursuant to a domestic contract.

PART V

DEPENDANTS' CLAIM FOR DAMAGES

Right of
dependants
to sue in
tort

60.—(1) Where a person is injured or killed by the fault or neglect of another under circumstances where the person is entitled to recover damages, or would have been entitled if not killed, the spouse, as defined in Part II, children, grandchildren, parents, grandparents, brothers and sisters of the person are entitled to recover their pecuniary loss resulting from the injury or death from the person from whom the person injured or killed is entitled to recover or would have been entitled if not killed, and to maintain an action for the purpose in a court of competent jurisdiction. R.S.O. 1970, c. 164, s. 3 (1), *amended*.

Contributory
negligence

(2) In an action under subsection 1, the right to damages is subject to any apportionment of damages due to con-

SECTION 59. Separation agreements and marriage contracts entered into before this Act comes into force are valid, and subsisting affiliation agreements and separation agreements are preserved.

SECTIONS 60 TO 64. This Part replaces *The Fatal Accidents Act* and extends that Act to cover non-fatal injuries, as recommended by the Ontario Law Reform Commission in Part I of its Report on Family Law. It also replaces the actions for loss of consortium and loss of services of a child (see section 69).

With the abolition of the husband's property in the services of his wife and the parent's property in the services of a child, and the creation of a new, qualified obligation of support under this Act, a new basis is created on which family members can recover expenses they incur for the benefit of an injured person. This section will allow them to recover the same kind of pecuniary loss as can now be recovered under *The Fatal Accidents Act*.

Section 60 extends the right to claim to a broader class of related person than under *The Fatal Accidents Act*. Subsection 2 codifies the case law under *The Fatal Accidents Act*.

The following sections are based on the provisions of that Act and require all claimants to join in one action. Insurance payments are not to be considered in assessing damages. The \$800 limit on funeral expenses is removed to allow recovery of reasonable funeral expenses actually incurred.

tributory fault or neglect of the person who was injured or killed. *New.*

(3) Not more than one action lies under subsection 1 for and in respect of the same occurrence, and no such action shall be brought after the expiration of two years from the time the cause of action arose. R.S.O. 1970, c. 164, s. 5; 1975, c. 38, s. 1. One action and limitation of actions

61.—(1) An action under subsection 1 of section 60 in respect of a person who is killed shall be commenced by and in the name of the executor or administrator of the deceased for the benefit of the persons entitled to recover under subsection 1 of section 60. R.S.O. 1970, c. 164, s. 3, *part, amended.* Executor to sue where death

(2) If there is no executor or administrator of the deceased, or if there is an executor or administrator and no such action is, within six months after the death of the deceased, brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by the executor or administrator. When action may be brought by persons beneficially interested

(3) Every action so brought is for the benefit of the same persons and is subject to the same regulations and procedure, as nearly as may be, as if it were brought by the executor or administrator. R.S.O. 1970, c. 164, s. 7. Regulations and procedure in such case

62.—(1) Where an action is commenced under section 60, the plaintiff shall, in his statement of claim, name and join the claim of any other person who is entitled to maintain an action under section 60 in respect of the same injury or death and thereupon such person becomes a party to the action. Joining claims

(2) A person who commences an action under section 60 shall file with the statement of claim an affidavit stating that to the best of his knowledge, information and belief the persons named in the statement of claim are the only persons who are entitled or claim to be entitled to damages under section 60. R.S.O. 1970, c. 164, s. 6 (1, 2), *amended.* Affidavit

63.—(1) The defendant may pay into court one sum of money as compensation for his fault or neglect to all persons entitled to compensation without specifying the shares into which it is to be divided. R.S.O. 1970, c. 164, s. 4. How money may be paid into court

(2) Where the compensation has not been otherwise apportioned, a judge may, upon application, apportion it among the persons entitled. Apportionment

When pay-
ment may
be
postponed

(3) The judge may in his discretion postpone the distribution of money to which minors are entitled and may direct payment from the undivided fund. R.S.O. 1970, c. 164, s. 8.

Assessment
of damages,
insurance

64.—(1) In assessing the damages in an action brought under this Part, the court shall not take into account any sum paid or payable as a result of the death or injury under a contract of insurance.

Funeral
expenses

(2) For the purposes of this Part, damages may be awarded for reasonable expenses actually incurred for the burial of the person in respect of whose death the action is brought. R.S.O. 1970, c. 164, s. 3 (2, 3), *amended*.

PART VI

AMENDMENTS TO THE COMMON LAW AND STATUTE LAW

Unity of legal
personality
abolished

65.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

Capacity of
married
person

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person. 1975, c. 41, s. 1 (1, 2).

Idem

(3) Without limiting the generality of subsections 1 and 2,

(a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;

(b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman; 1975, c. 41, s. 1 (3), *part*.

(c) the same rules shall be applied to determine the domicile of a married woman as for a married man.

Purpose
of subss.
1, 2

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed. 1975, c. 41, s. 1 (4).

Actions
between
parent and
child

66. No person shall be disentitled from bringing an action or other proceeding against another for the reason

SECTION 65. This section formerly appeared as section 1 (1, 2, 4) of *The Family Law Reform Act, 1975*. Subsection 3 (c) is new.

SECTION 66. This section formerly appeared as section 3 of *The Family Law Reform Act, 1975*.

SECTION 67. This section formerly appeared as section 4 of *The Family Law Reform Act, 1975*.

SECTION 68. The domicile of a minor is no longer dependent automatically on the domicile of the father alone. A minor who is or has been married is capable of acquiring a domicile as if an adult.

SECTION 69. This section abolishes several old and little used common law actions, as recommended by the Ontario Law Reform Commission in Part I of its Report on Family Law. The loss of consortium and loss of services actions are replaced by sections 60 to 64. Subsection 5 results from the abolition of the seduction action.

only that they stand in the relationship of parent and child.
1975, c. 41, s. 3.

67. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. 1975, c. 41, s. 4. Recovery for prenatal injuries

68.—(1) Subject to subsection 2, a child who is a minor, Domicile of minors

- (a) takes the domicile of his or her parents, where both parents have a common domicile;
- (b) takes the domicile of the parent with whom the child habitually resides, where the child resides with one parent only;
- (c) takes the domicile of the father, where the domicile of the child cannot be determined under clause *a* or *b*; or
- (d) takes the domicile of the mother, where the domicile of the child cannot be determined under clause *c*.

(2) The domicile of a minor who is or has been a spouse shall be determined in the same manner as if the minor were of full age. Idem

69.—(1) No action shall be brought for criminal conversation or for any damages resulting therefrom or from adultery. Criminal conversation abolished

(2) No action shall be brought by a married person for the enticement or harbouring of the spouse of such person or for any damages resulting therefrom. Enticement and harbouring of spouse abolished

(3) No action shall be brought by a married person for the loss of the consortium of his or her spouse or for any damages resulting therefrom. Loss of consortium abolished

(4) No action shall be brought by a parent for the enticement, harbouring, seduction or loss of services of his or her child or for any damages resulting therefrom. Enticement, harbouring, seduction, loss of services of child abolished

(5) *The Seduction Act*, being chapter 428 of the Revised Statutes of Ontario, 1970 and paragraph 30 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed. R.S.O. 1970, c. 428; 1971, c. 98, Sched., par. 30, repealed

R.S.O. 1970,
c. 228, s. 59,
amended

(6) Section 59 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is amended by striking out "criminal conversation, seduction" in the first line.

Dower
abolished

70.—(1) The common law right of a widow to dower is hereby abolished.

R.S.O. 1970,
c. 135;
1971, c. 98,
Sched.,
par. 11,
repealed

(2) *The Dower Act*, being chapter 135 of the Revised Statutes of Ontario, 1970, and paragraph 11 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed.

R.S.O. 1970,
c. 152, s. 28 (2),
repealed

(3) Subsection 2 of section 28 of *The Execution Act*, being chapter 152 of the Revised Statutes of Ontario, 1970, is repealed.

Vested
right to
dower

(4) Subsections 1, 2 and 3 do not apply in respect of a right to dower that has vested before subsections 1 and 2 come into force.

Refund of
indemnity
held by
accountant
for dower

(5) Where money has been paid into court as an indemnity in respect of a right to dower that has not vested before this section comes into force, the husband of the person in respect of whose dower right the money was paid into court is entitled to be paid the money upon application to the accountant of the court, without order.

Alimony
abolished

71.—(1) The right of a married woman to alimony under any law existing before this section comes into force is hereby abolished.

Continuation
of action
commenced

(2) Where an action for alimony is commenced before subsection 1 comes into force and no evidence has been heard in the action before this Act comes into force, other than in respect of an interim order, the action shall be deemed to be an application under Part II subject to such directions as the court considers appropriate.

Polygamous
marriages

72. This Act applies to persons whose marriage was actually or potentially polygamous if the marriage was celebrated in a jurisdiction whose system of law recognizes the marriage as valid.

R.S.O. 1970,
c. 64, s. 27 (4),
amended

73.—(1) Subsection 4 of section 27 of *The Child Welfare Act*, being chapter 64 of the Revised Statutes of Ontario, 1970, is amended by striking out "*The Deserted Wives' and Children's Maintenance Act*" and inserting in lieu thereof "*Part II of The Family Law Reform Act, 1978*".

SECTION 70. Because of the rights conferred on husbands and wives under Parts I and III, dower is abolished. Subsection 4 preserves vested rights of dower where the husband dies before this Act comes into force. Where money has been paid into court in respect of an inchoate dower interest, the husband is entitled to recover the money. Subsections 2 and 3 repeal statutory references to dower.

The widower's right of curtesy is abolished by *The Succession Law Reform Act, 1977*.

SECTION 71. The alimony action is abolished, as it is replaced by Part II. Applications to vary existing alimony orders are to be made under section 21. Alimony actions that have not come to trial are converted into applications for support under Part II.

SECTION 72. The obligations and remedies under this Act are not denied for the reason that the marriage is polygamous.

SECTION 73. Part III of *The Child Welfare Act* is replaced by Part II and section 58.

SECTION 74. *The Children's Maintenance Act* is replaced by Part II.

SECTION 75. The amendment is consequential to section 30 (3).

SECTION 76. *The Deserted Wives' and Children's Maintenance Act* is replaced by Part II.

SECTION 77. *The Employment Standards Act, 1974* is amended to extend the protection against dismissal or suspension in respect of garnishment of wages to cover attachment of wages under section 30 of this Act.

SECTION 78. Sections 1 to 4 of *The Family Law Reform Act, 1975* are incorporated in or replaced by this Act. See sections 7, 8, 65, 66 and 67.

SECTION 79. *The Fatal Accidents Act* is incorporated in sections 60 to 64.

SECTION 80. Provisions of *The Infants Act* relating to support and marriage contracts are repealed, as they are replaced by Part II and Part IV, respectively.

(2) Part III of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, Schedule, paragraph 6, subparagraph ii, 1972, chapter 109, section 6, 1973, chapter 75, section 5 and 1975, chapter 1, sections 25, 26, 27 and 28, is repealed. Part III,
repealed

74. *The Children's Maintenance Act*, being chapter 67 of the Revised Statutes of Ontario, 1970 and subsection 2 of section 18 of *The Age of Majority and Accountability Act*, 1971, being chapter 98, are repealed. R.S.O. 1970,
c. 67;
1971, c. 98,
s. 18 (2),
repealed

75. Section 4 of *The Creditors Relief Act*, being chapter 97 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection: R.S.O. 1970,
c. 97, s. 4 (9),
amended

(9) This section does not apply to an attachment made under section 30 of *The Family Law Reform Act*, 1978. 1978, c. ...;
exempted

76. *The Deserted Wives' and Children's Maintenance Act*, being chapter 128 of the Revised Statutes of Ontario, 1970, subsection 1 of section 18 of *The Age of Majority and Accountability Act*, 1971, being chapter 98, and *The Deserted Wives' and Children's Maintenance Amendment Act*, 1973, being chapter 133, are repealed. R.S.O. 1970,
c. 128,
1971, c. 98,
s. 18 (1);
1973, c. 133,
repealed

77. Section 9 of *The Employment Standards Act*, 1974, being chapter 112, is repealed and the following substituted therefor: 1974, c. 122,
s. 9,
re-enacted

9. No employer shall dismiss or suspend an employee on the ground that garnishment proceedings are or may be taken against the employee or that an attachment order under section 30 of *The Family Law Reform Act*, 1978 has been or may be made against the employee. Garnish-
ment or
attachment
of wages

1978, c. ...

78. Sections 1, 2, 3 and 4 of *The Family Law Reform Act*, 1975, being chapter 41, are repealed. 1975, c. 41,
ss. 1-4,
repealed

79. *The Fatal Accidents Act*, being chapter 164 of the Revised Statutes of Ontario, 1970, *The Fatal Accidents Amendment Act*, 1973, being chapter 16, and *The Fatal Accidents Amendment Act*, 1975, being chapter 38, are repealed. R.S.O. 1970,
c. 164;
1973, c. 16;
1975, c. 38,
repealed

80.—(1) *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by striking out, R.S.O. 1970,
c. 222,
amended

- (a) subsection 4, subsection 4a, as enacted by the Statutes of Ontario, 1971, chapter 98, section 18, and subsection 5 of section 1;
- (b) subsection 2 of section 2;
- (c) sections 10, 13 and 14; and
- (d) section 15, as re-enacted by the Statutes of Ontario, 1971, chapter 98, section 16.

1971, c. 98,
s. 18 (3),
Sched., par. 14,
subpar. 1,
repealed

(2) *The Age of Majority and Accountability Act, 1971*, being chapter 98, is amended by striking out,

- (a) section 10;
- (b) subsection 3 of section 18; and
- (c) subparagraph i of paragraph 14 of the Schedule.

R.S.O. 1970,
c. 228, s. 81,
repealed

81.—(1) Subject to subsection 2, section 81 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed.

Continu-
ance for
existing
judgments

(2) The provision repealed by subsection 1 remains in force in respect of a judgment for alimony in an action commenced before this section comes into force.

R.S.O. 1970,
c. 262, ss. 1, 12,
repealed

82. Sections 1 and 12 of *The Married Women's Property Act*, being chapter 262 of the Revised Statutes of Ontario, 1970, are repealed.

R.S.O. 1970,
c. 265, ss. 1-5,
8;
1971, c. 98,
s. 18 (4),
repealed

83. Sections 1, 2, 3, 4, 5 and 8 of *The Matrimonial Causes Act*, being chapter 265 of the Revised Statutes of Ontario, 1970 and subsection 4 of section 18 of *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed.

R.S.O. 1970,
c. 336,
repealed

84. *The Parents' Maintenance Act*, being chapter 336 of the Revised Statutes of Ontario, 1970, is repealed.

R.S.O. 1970,
c. 342,
s. 24,
amended

85. Section 24 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970 is amended by adding thereto the following subsection:

Application
of subs. 1

- (2) Subsection 1 does not apply to the execution, seizure or attachment of moneys payable under a pension plan in satisfaction of an order for support under *The Family Law Reform Act, 1978*.

1978, c. ...

SECTION 81. The repeal of section 81 of *The Judicature Act*, which allows the registration of alimony orders against land, results from the abolition of alimony in section 71.

SECTION 82. The remaining sections of *The Married Women's Property Act* are repealed, as they are replaced by sections 6 and 7.

SECTION 83. Provisions of *The Matrimonial Causes Act* relating to support on the annulment of a marriage are repealed, as they are replaced by Part II.

SECTION 84. *The Parents' Maintenance Act* is replaced by Part II.

SECTION 85. *The Pension Benefits Act* is amended to make pensions available to satisfy a support order.

SECTION 86. The repealed provision allows support orders made in the Supreme Court to be filed for enforcement in the provincial court (family division). This is provided for in section 27. The repealed provision remains in force for orders made in actions begun before this Act comes into force.

SECTION 87. This amendment is made to bring the terminology in *The Reciprocal Enforcement of Maintenance Act* into line with that used in this Act.

SECTION 88. The provision of *The Statute of Frauds* relating to marriage contracts is replaced by section 54 (1).

SECTION 89. No action or proceeding under the repealed or abolished provisions may be begun after this Act comes into force.

86.—(1) Subject to subsection 2, section 25 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970. c. 369, s. 25. repealed

(2) Every order or judgment filed under section 25 of *The Provincial Courts Act* before subsection 1 comes into force shall be deemed to have been filed under section 27 of this Act with the request therein mentioned. Transition for existing orders R.S.O. 1970. c. 369

87.—(1) *The Reciprocal Enforcement of Maintenance Orders Act*, being chapter 403 of the Revised Statutes of Ontario, 1970, is amended by striking out “summons” in each case where it appears and inserting in lieu thereof “notice of application”. R.S.O. 1970. c. 403, amended

(2) Subsection 3 of section 2 of the said Act is amended by striking out “*The Deserted Wives’ and Children’s Maintenance Act*” and inserting in lieu thereof “Part II of *The Family Law Reform Act, 1978*”. Idem s. 3 (2), amended

88. Section 4 of *The Statute of Frauds*, being chapter 444 of the Revised Statutes of Ontario, 1970, is amended by striking out “any agreement made upon consideration of marriage, or upon” in the fifth and sixth lines. R.S.O. 1970. c. 444, s. 4, amended

89. Sections 69, 73, 74, 76, 79, 80, 82, 83 and 84 apply in all cases when they come into force except in cases where an action or proceeding was commenced under the abolished, repealed or amended provision before that date. Application of ss. 69, 73, 74, 76, 79, 80, 82, 83 and 84

GENERAL

90. The Lieutenant Governor in Council may make regulations respecting any matter required to be or referred to as prescribed by the regulations. Regulations

91. This Act comes into force on the 31st day of March, 1978. Commencement

92. The short title of this Act is *The Family Law Reform Act, 1978*. Short title

An Act to reform the Law respecting
Property Rights and Support Obligations
between Married Persons and in other
Family Relationships

1st Reading

February 21st, 1978

2nd Reading

February 21st, 1978

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Reprinted as amended by the
Administration of Justice Committee)

1556
BILL 59

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to reform the Law respecting
Property Rights and Support Obligations between
Married Persons and in other Family Relationships

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Attorney General 13/3

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BILL 59

1978

**An Act to reform the Law respecting
Property Rights and Support Obligations
between Married Persons and in other
Family Relationships**

WHEREAS, it is desirable to encourage and strengthen Preamble
the role of the family in society;

AND WHEREAS for that purpose it is necessary to recognize the equal position of spouses as individuals within marriage and to recognize marriage as a form of partnership;

AND WHEREAS in support of such recognition it is necessary to provide in law for the orderly and equitable settlement of the affairs of the spouses upon the breakdown of the partnership; and to provide for other mutual obligations in family relationships, including the equitable sharing by parents of responsibility for their children:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "child" means a child born within or outside marriage, subject to sections 83 and 85 of *The Child Welfare Act* (which relate to the effect of adoption), and includes a person whom the parent has demonstrated a settled intention to treat as a child of his or her family, but does not include a child placed in a foster home for consideration by a person having lawful custody; R.S.O. 1970,
c. 64
- (b) "cohabit" means to live together in a conjugal relationship, whether within or outside marriage;
- (c) "court" means a provincial court (family division), the Unified Family Court, a county or district court or the Supreme Court;

- (d) “domestic contract” means a domestic contract as defined in Part IV;
- (e) “parent” means the father or mother of a child, and includes a person who has demonstrated a settled intention to treat a child as a child of his or her family, but does not include a person in whose home a child was placed as a foster child for consideration by a person having lawful custody;
- (f) “spouse” means either of a man and woman who,
- (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
 - (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year.

Combining of
application

2.—(1) Where, in an application under any provision of this Act, it appears to the court that for the appropriate determination of the affairs of the spouses it is necessary or desirable to have other matters first or simultaneously determined, the court may direct that the application stand over until such other applications are brought or determined as the court considers appropriate.

All
proceedings
in one court

(2) Except as otherwise provided, where an application is made to a court under this Act, no person who is a party to the proceeding shall make an application under this Act to any other court, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

Applications

(3) An application under this Act may be made in the manner prescribed by the rules of the court or in another proceeding.

Capacity
of minors

(4) A minor who is a spouse has capacity to commence, conduct and defend a proceeding under this Act without the intervention of a next friend or guardian *ad litem* and give any consent required or authorized by this Act.

Extension
of times

(5) The court may extend any time prescribed by this Act where the court is satisfied that,

- (a) there are *prima facie* grounds for relief;
- (b) relief is unavailable because of delay that has been incurred in good faith; and
- (c) no substantial prejudice or hardship will result to any person affected by reason of the delay.

(6) The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court may by order prohibit the publication of any matter connected with the application or given in evidence at the hearing. Closed hearings

(7) Upon the consent of the parties in an application under this Act, the court may make any order that the court is otherwise empowered to make by this Act, subject to the duty of the court to have regard to the best interests of children affected. Consent orders

(8) Any matter provided for in a domestic contract may be incorporated in an order made under this Act. Incorporation of contract in order

(9) Where a domestic contract makes provision in respect of a matter that is provided for in this Act, the contract prevails except as otherwise provided in this Act. Act subject to contracts

(10) Where an order made under this Act affects real property, the order does not affect the acquisition of an interest in the real property by a person in good faith without notice of the order, unless the order is registered in the proper land registry office. Registration of orders

PART I

FAMILY PROPERTY

3. In this Part, Interpretation

- (a) “court” means a court as defined in section 1 but does not include a provincial court (family division);
- (b) “family assets” means a matrimonial home as determined under Part III and property owned by one spouse or both spouses and ordinarily used or enjoyed by both spouses or one or more of their children while the spouses are residing together for shelter or transportation or for household, educational, recreational, social or aesthetic purposes, and includes,

- (i) money in an account with a chartered bank, savings office, credit union or trust company where the account is ordinarily used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes,
- (ii) where property owned by a corporation, partnership or trustee would, if it were owned by a spouse, be a family asset, shares in the corporation or an interest in the partnership or trust owned by the spouse having a market value equal to the value of the benefit the spouse has in respect of the property,
- (iii) property over which a spouse has, either alone or in conjunction with another person, a power of appointment exercisable in favour of himself or herself, if the property would be a family asset if it were owned by the spouse, and
- (iv) property disposed of by a spouse but over which the spouse has, either alone or in conjunction with another person, a power to revoke the disposition or a power to consume, invoke or dispose of the property, if the property would be a family asset if it were owned by the spouse,

but does not include property that the spouses have agreed by a domestic contract is not to be included in the family assets;

- (c) "property" means real or personal property or any interest therein.

Division of
family
assets

4.—(1) Subject to subsection 4, where a decree *nisi* of divorce is pronounced or a marriage is declared a nullity or where the spouses are separated and there is no reasonable prospect of the resumption of cohabitation, each spouse is entitled to have the family assets divided in equal shares notwithstanding the ownership of the assets by the spouses as determinable for other purposes and notwithstanding any order under section 7.

Application
to court

(2) The court may, upon the application of a person who is the spouse of another, determine any matter respecting the division of family assets between them.

Effect of
death of
spouse

(3) The rights under subsection 1 are personal as between the spouses but any application commenced under subsection

2 before the death of a spouse may be continued by or against the estate of the deceased spouse.

(4) The court may make a division of family assets resulting in shares that are not equal where the court is of the opinion that a division of the family assets in equal shares would be inequitable, having regard to, Variation of division

- (a) any agreement other than a domestic contract;
- (b) the duration of the period of cohabitation under the marriage;
- (c) the duration of the period during which the spouses have lived separate and apart;
- (d) the date when the property was acquired;
- (e) the extent to which property was acquired by one spouse by inheritance or by gift; or
- (f) any other circumstance relating to the acquisition, disposition, preservation, maintenance, improvement or use of property rendering it inequitable for the division of family assets to be in equal shares.

(5) The purpose of this section is to recognize that child care, household management and financial provision are the joint responsibilities of the spouses and that inherent in the marital relationship there is joint contribution, whether financial or otherwise, by the spouses to the assumption of these responsibilities, entitling each spouse to an equal division of the family assets, subject to the equitable considerations set out in subsections 4 and 6. Purpose

(6) The court shall make a division of any property that is not a family asset where, Property other than family assets

- (a) a spouse has unreasonably impoverished the family assets; or
- (b) the result of a division of the family assets would be inequitable in all the circumstances, having regard to,
 - (i) the considerations set out in clauses *a* to *f* of subsection 4, and
 - (ii) the effect of the assumption by one spouse of any of the responsibilities set out in subsection 5 on the ability of the other spouse to acquire, manage, maintain, operate or improve property that is not a family asset.

Statement
of property

5.—(1) Where an application is made under section 4, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of all property of the party in the manner and form prescribed by the rules of the court.

Order for
sealing
statement

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection 1 would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record.

Idem

6. In an application under section 4, the court may order,

- (a) that the title to any specified property directed to a spouse in the division be transferred to or in trust for or vested in the spouse whether absolutely, for life or for a term of years;
- (b) the partition or sale of any property;
- (c) that payment be made out of the proceeds of sale to one or both spouses, and the amount thereof;
- (d) that any property forming part of the share of either or both spouses be transferred to or in trust for or vested in a child to whom a spouse owes an obligation to provide support;
- (e) that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property; and
- (f) that either spouse pay to the other such sum as is set out in the order for the purpose of adjusting the division,

and may make such other orders or directions as are ancillary thereto.

Determin-
ation of
questions of
title between
married
persons

7. Any person may apply to the court for the determination of any question between that person and his or her spouse or former spouse as to the ownership or right to possession of any particular property, except where an application or an order has been made respecting the property under section 4 or 6, and the court may,

- (a) declare the ownership or right to possession;
- (b) where the property has been disposed of, order payment in compensation for the interest of either party;

- (c) order that the property be partitioned or sold for the purpose of realizing the interests therein; and
- (d) order that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property,

and may make such other orders or directions as are ancillary thereto.

8. Where one spouse or former spouse has contributed Contribution to property work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of property, other than family assets, in which the other has or had an interest, upon application, the court may by order,

- (a) direct the payment of an amount in compensation therefor; or
- (b) award a share of the interest of the other spouse or former spouse in the property appropriate to the contribution,

and the court shall determine and assess the contribution without regard to the relationship of husband and wife or the fact that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances. 1975, c. 41, s. 1 (3) (c), *amended*.

9. In or pending an application under section 4, 7 or 8, the court may make such interim order as it considers necessary Interim orders for preservation for restraining the dissipation of the property and for the possession, delivering up, safekeeping and preservation of the property.

10. Where a court orders security for the performance of any obligation under this Part or charges a property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge. Realization of security

11.—(1) The rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that, Presumptions

- (a) the fact that property is placed or taken in the name of spouses as joint tenants is *prima facie* proof that each spouse is intended to have on a severance of the joint tenancy a one-half beneficial interest in the property; and

- (b) money on deposit in a chartered bank, savings office, credit union or trust company in the name of both spouses shall be deemed to be in the name of the spouses as joint tenants for the purposes of clause *a.* 1975, c. 41, s. 1 (3) (*d*), *amended*.

Application (2) Subsection 1 applies notwithstanding that the event giving rise to the presumption occurred before this section comes into force.

Application
of Part

12. This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before this Part comes into force;
- (b) the property in issue was acquired before this Part comes into force; or
- (c) a proceeding to determine the rights as between spouses in respect of property has been commenced or adjudicated before this Part comes into force.

Conflict
of laws

13.—(1) The division of family assets and the ownership as between spouses of movable property wherever situate are governed by the internal law of the place where both spouses had their last common habitual residence or, where there is no place where the spouses had a common habitual residence, by the law of Ontario.

Idem

(2) The ownership of immovable property as between spouses is governed by the internal law of the place where the land is situated, but where the law of Ontario is applicable respecting the division of family assets, the value of the property may be taken into consideration for the purposes of section 4.

PART II

SUPPORT OBLIGATIONS

Interpre-
tation

14. In this Part,

- (a) “dependant” means a person to whom another has an obligation to provide support under this Part;
- (b) “spouse” means a spouse as defined in section 1, and in addition includes,
 - (i) either of a man and woman not being married to each other who have cohabited,

1. continuously for a period of not less than five years, or

2. in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year, and

- (ii) either of a man and woman between whom an order for support has been made under this Part or an order for alimony or maintenance has been made before this Part comes into force.

15. Every spouse has an obligation to provide support for himself or herself and for the other spouse, in accordance with need, to the extent that he or she is capable of doing so. Obligation of spouses for support

16.—(1) Every parent has an obligation, to the extent the parent is capable of doing so, to provide support, in accordance with need, for his or her child who is unmarried and is under the age of eighteen years. Obligation of parent to support child

(2) The obligation under subsection 1 does not extend to a child who, being of the age of sixteen years or over, has withdrawn from parental control. Idem

17. Every child who is not a minor has an obligation to provide support, in accordance with need, for his or her parent who has cared for and provided support for the child, to the extent that the child is capable of doing so. Obligation of child to support parent

18.—(1) A court may, upon application, order a person to provide support for his or her dependants and determine the amount thereof. Order for support

(2) An application for an order for the support of a dependant may be made by the dependant or a parent of the dependant or under subsection 3. Applicants

(3) An application for an order for the support of a dependant who is a spouse or a dependent child of the spouse may be made by, Idem

(a) the Ministry of Community and Social Services in the name of the Minister; or

(b) a municipal corporation, including a metropolitan, district or regional municipality, but not including an area municipality thereof,

if the Ministry or municipality is providing a benefit under *The Family Benefits Act* or assistance under *The General Welfare Assistance Act* in respect of the support of the dependant. R.S.O. 1970, cc. 157, 192

Setting aside
domestic
contract

(4) The court may set aside a provision for support in a domestic contract or paternity agreement and may determine and order support in an application under subsection 1 notwithstanding that the contract or agreement contains an express provision excluding the application of this section,

- (a) where the provision for support or the waiver of the right to support results in circumstances that are unconscionable;
- (b) where the provision for support is to a spouse who qualifies for an allowance for support out of public money; or
- (c) where there has been default in the payment of support under the contract or agreement.

Determin-
ation of
amount

(5) In determining the amount, if any, of support in relation to need, the court shall consider all the circumstances of the parties, including,

- (a) the assets and means of the dependant and of the respondent and any benefit or loss of benefit under a pension plan or annuity;
- (b) the capacity of the dependant to provide for his or her own support;
- (c) the capacity of the respondent to provide support;
- (d) the age and the physical and mental health of the dependant and of the respondent;
- (e) the length of time the dependant and respondent cohabited;
- (f) the needs of the dependant, in determining which the court may have regard to the accustomed standard of living while the parties resided together;
- (g) the measures available for the dependant to become financially independent and the length of time and cost involved to enable the dependant to take such measures;
- (h) the legal obligation of the respondent to provide support for any other person;
- (i) the desirability of the dependant or respondent remaining at home to care for a child;

- (j) a contribution by the dependant to the realization of the career potential of the respondent;
- (k) where the dependant is a child, his or her aptitude for and reasonable prospects of obtaining an education;
- (l) where the dependant is a spouse, the effect on his or her earning capacity of the responsibilities assumed during cohabitation;
- (m) where the dependant is a spouse, whether the dependant has undertaken the care of a child who is of the age of eighteen years or over and unable by reason of illness, disability or other cause to withdraw from the charge of his or her parents;
- (n) where the dependant is a spouse, whether the dependant has undertaken to assist in the continuation of a program of education for a child who is of the age of eighteen years or over and unable for that reason to withdraw from the charge of his or her parents;
- (o) where the dependant is a spouse, any house-keeping, child care or other domestic service performed by the spouse for the family, in the same way as if the spouse were devoting the time spent in performing that service in remunerative employment and were contributing the earnings therefrom to the support of the family; and
- (p) any other legal right of the dependant to support other than out of public money.

(6) The obligation to provide support for a spouse exists ^{Conduct} without regard to the conduct of either spouse, but the court may in determining the amount of support have regard to a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship.

19.—(1) In an application under section 18, the court ^{Powers of court} may order,

- (a) an amount payable periodically, whether annually or otherwise and whether for an indefinite or limited period, or until the happening of a specified event;
- (b) a lump sum to be paid or held in trust;

- (c) any specified property to be transferred to or in trust for or vested in the dependant, whether absolutely, for life or for a term of years;
- (d) any matter authorized to be ordered under clauses *a* to *d* of subsection 1 of section 45 and subject to subsection 3 thereof;
- (e) that all or any of the moneys payable under the order be paid into court or to any other appropriate person or agency for the benefit of the dependant;
- (f) the payment of support to be made in respect of any period before the date of the order;
- (g) the payment to an agency referred to in subsection 3 of section 18 of any amount in reimbursement for a benefit or assistance referred to therein, including an amount in reimbursement for such benefit or assistance provided before the date of the order;
- (h) the payment of expenses in respect of the pre-natal care and birth of a child;
- (i) that the obligation and liability for support continue after the death of the respondent and be a debt of his or her estate for such period as is fixed in the order;
- (j) that a spouse who has a policy of life insurance as defined in Part V of *The Insurance Act* designate the other spouse or a child as the beneficiary irrevocably; and
- (k) the securing of payment under the order, by a charge on property or otherwise.

R.S.O. 1970,
c. 224

Limitation
on
jurisdiction
of family
court

(2) A provincial court (family division) shall not make an order under clause *b*, *c*, *j* or *k* of subsection 1 except for the provision of necessities or preventing the dependant from becoming a public charge.

Interim
orders

(3) Where an application is made under section 18, the court may make such interim order as the court considers appropriate.

Assignment
of support

(4) An order for support is assignable to an agency referred to in subsection 3 of section 18.

(5) Unless an order to provide support otherwise provides, it terminates upon the death of the person having the obligation to provide support, and the liability for amounts under the order coming due and unpaid in the preceding twelve months is a debt of his or her estate.

Termination
of support
order on
death

20.—(1) Where an action for divorce is commenced under the *Divorce Act* (Canada), any application for support or custody under this Part that has not been determined is stayed except by leave of the court.

Effect of
divorce
proceedings
R.S.C. 1970,
c. D-8

(2) Where a marriage is terminated by a decree absolute of divorce or declared a nullity and the question of support was not judicially determined in the divorce or nullity proceedings, an order for support made under this Part continues in force according to its terms.

Idem

21.—(1) Where an order for support has been made or confirmed and where the court is satisfied that there has been a material change in the circumstances of the dependant or the respondent or evidence has become available that was not available on the previous hearing, the court may, upon the application of any person named in the order or referred to in subsection 3 of section 18, discharge, vary or suspend any term of the order, prospectively or retroactively, relieve the respondent from the payment of part or all of the arrears or any interest due thereon and make such other order under section 19 as the court considers appropriate in the circumstances referred to in section 18.

Review and
variation
of orders

(2) An application under subsection 1 shall be made to the court that made the order or to a co-ordinate court in another part of Ontario.

Court

(3) No application under subsection 1 shall be made within six months after the making of the order for support or the disposition of any other application under subsection 1 in respect of the same order, except by leave of the court.

Limitation
on appli-
cations for
review

(4) This section applies to orders for maintenance or alimony made before this section comes into force or in a proceeding commenced before this section comes into force.

Existing
orders

22. In or pending an application under section 18 or appearance to a notice under section 28, or where an order for support has been made, the court may make such interim or final order as it considers necessary for restraining the disposition or wasting of assets that would impair or defeat the claim or order for the payment of support.

Restraining
orders

Statement
of financial
affairs

23.—(1) Where an application is made under section 18 or 21, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of financial information in the manner and form prescribed by the rules of the court.

Order for
sealing
statement

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection 1 would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record.

Absconding
respondent
or debtor

24. Where an application is made under section 18 or a notice is issued under section 28 and a judge of the court is satisfied that the respondent or debtor is about to leave Ontario, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent or debtor.

Provisional
orders

25.—(1) Where an application is made under section 18 or 21 in a provincial court (family division) or the Unified Family Court and,

- (a) the respondent in the application fails to appear;
- (b) it appears to the court that the respondent resides in a locality in Ontario that is outside the territorial jurisdiction of the court; and
- (c) in the circumstances of the case, the court is of the opinion that the issues can be adequately determined by proceeding under this section,

the court may proceed in the absence of the respondent and without the statement of the financial affairs of the respondent required by section 23 and in place of a final order may make an order for support that is provisional only and the order has no effect until it is confirmed by the provincial court (family division) or the Unified Family Court in the locality in which the respondent resides.

Transmission
for hearing

(2) Where a provisional order is made under subsection 1, the court making the order shall send to the court having jurisdiction in the locality in which the respondent resides copies of such documents and records, certified in such manner, as are prescribed by the rules of the court.

Show
cause

(3) The court to which the documents and records are sent under subsection 2 shall cause them to be served upon

the respondent together with a notice to file with the court the statement of financial affairs required by section 23 and to appear and show cause why the provisional order should not be confirmed.

(4) At the hearing, the respondent may raise any defence that might have been raised in the original proceedings, but, if on appearing the respondent fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order without variation or with such variation as the court considers proper having regard to all the evidence. Confirmation of order

(5) Where the respondent appears before the court and satisfies the court that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the court where the applicant resides, the court may so remit the case and adjourn the proceedings for that purpose. Adjournment for further evidence

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court that made the order together with a statement of the reasons for so doing, and in that event the court that made the order may dispose of the application in such manner as it considers proper. Where order not confirmed

(7) A certificate certifying copies of documents or records for the purpose of this section and purporting to be signed by the clerk of the court is, without proof of the office or signature of the clerk, admissible in evidence in a court to which it is transmitted under this section as *prima facie* proof of the authenticity of the copy. Certificates as evidence

(8) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have had if the order had been made under section 19. Right of appeal

26.—(1) Where it appears to a court that,

Access to records

- (a) for the purpose of bringing an application under this Part; or
- (b) for the purpose of the enforcement of an order for support, custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts

of the proposed respondent or person against whom the order is made, the court may order any person or public agency to provide the court with such particulars of the address as are contained in the records in its custody and the person or agency shall provide to the court such particulars as it is able to provide.

Section
binds Crown

(2) This section binds the Crown in right of Ontario.

Enforcement
of orders by
family court
clerk

27.—(1) The clerk of the Unified Family Court or of a provincial court (family division), upon the request of a person entitled to support under an order for support or maintenance enforceable in Ontario or other persons or agency mentioned in subsection 3 of section 18 and upon the filing of such material as is prescribed by the rules of the court may enforce the order.

Powers of
court for
enforcement

(2) For the purposes of enforcing an order filed under subsection 1, a provincial court (family division) has the power to issue execution and garnishment in accordance with the rules of the court and section 145 of *The Small Claims Courts Act* and subsection 3 of section 4 of *The Creditors' Relief Act* apply to a garnishment issued by the provincial court (family division).

R.S.O. 1970,
cc. 439, 97

Crown
subject to
attachment
for support
R.S.O. 1970,
c. 365

(3) Notwithstanding section 25 of *The Proceedings Against the Crown Act*, an attachment under subsection 1 of section 30 and any other execution, garnishment or attachment or process in the nature thereof for the payment of an amount owing or accruing under an order for support or maintenance, may be issued against the Crown.

Examination
of debtor

28.—(1) Where there is default in payment under an order for support or maintenance, a clerk of the Unified Family Court or a provincial court (family division) may require the debtor, upon notice,

- (a) to file a statement of financial information referred to in section 23;
- (b) submit to an examination as to assets and means; and
- (c) appear before the court to explain the default.

Compelling
attendance

(2) If the debtor fails to appear as required after being served with a notice, or if the court is satisfied that the debtor cannot be served or intends to leave Ontario without appearing as required after being served, the court giving the notice may issue a warrant for the arrest of the debtor for the purpose of compelling attendance.

29.—(1) Where the debtor fails to satisfy the court that the default is owing to his or her inability to pay and where the court is satisfied that all other practicable means that are available under this Act for enforcing payment have been considered, the court may,

Penalty
for
default

- (a) order imprisonment for a term of not more than ninety days to be served intermittently or as ordered by the court; or
- (b) make such other order as may be made upon summary conviction for an offence that is punishable by imprisonment.

(2) The order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order, including the performance of a community service order.

Conditions
of sentence

30.—(1) Where the court considers it appropriate in a proceeding under section 28, the court may make an attachment order directing the employer of the debtor to deduct from any remuneration of the debtor due at the time the order is served on the employer or thereafter due or accruing due such amount as is named in the order and to pay the amounts deducted into court, and section 7 of *The Wages Act* does not apply.

Attachment
of wages

R.S.O. 1970,
c. 486

(2) Where an application is made under section 21, the court may discharge, vary or suspend any term of an order made under subsection 1.

Variation of
attachment

(3) An order under subsection 1 has priority over any other seizure or attachment of wages arising before or after the service of the order.

Priority
of order

31. Where the court considers it appropriate in a proceeding under section 28, the court may order the debtor to give security for the payment of support or may charge any property of the debtor with payment of an amount for the provision of necessities or preventing the dependant from becoming a public charge.

Security
for
payment

32. Where a court orders security for the payment of support under this Part or charges property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge.

Realization
of security

Pledging
credit for
necessaries

33.—(1) During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessities of life, except where the spouse has notified the third party that he or she has withdrawn the authority.

Liability
for
necessaries
of minor

(2) Where a person is entitled to recover against a minor in respect of the provision of necessities for the minor, each parent who has an obligation to support the minor is liable therefor jointly and severally with the minor.

Recovery
between
persons
jointly
liable

(3) Where persons are jointly and severally liable with each other under this section, their liability to each other shall be determined in accordance with their obligation to provide support.

Common
law
supplanted

(4) The provisions of this section apply in place of the rules of common law by which a wife may pledge the credit of her husband.

Order
restraining
harassment

34. Upon application, a court may make an order restraining the spouse of the applicant from molesting, annoying or harassing the applicant or children in the lawful custody of the applicant and may require the spouse of the applicant to enter into such recognizance as the court considers appropriate.

Custody of
children

35.—(1) Upon application, the court may order that either parent or any person have custody of or access to a child in accordance with the best interests of the child and may at any time alter, vary or discharge the order.

Court

(2) An application to alter, vary or discharge the order shall be made to the court that made the order or to a co-ordinate court in another part of Ontario.

Interim
orders

(3) Where an application is made under subsection 1, the court may make such interim order as the court considers appropriate.

Application
to orders
under
R.S.O. 1970,
c. 128

(4) This section applies to orders for custody or access made under *The Deserted Wives' and Children's Maintenance Act*.

Appeal
from
provincial
court (family
division)

36. An appeal lies from an order of the provincial court (family division) under this Part to the county or district court in the county or district in which the provincial court (family division) is situated.

37.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders under this Act, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Contempt
of orders of
provincial
court (family
division)

(2) An order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Conditions
of
imprison-
ment

PART III

MATRIMONIAL HOME

38. In this Part, “property” means real or personal property.

Interpre-
tation

39.—(1) Property in which a person has an interest and that is or has been occupied by the person and his or her spouse as their family residence is their matrimonial home.

Matrimonial
home

(2) Subsection 1 applies notwithstanding that its application results in more than one matrimonial home.

More
than one
matrimonial
home

(3) The ownership of a share or shares, or of an interest in a share or shares, of a corporation entitling the owner to the occupation of a housing unit owned by the corporation shall be deemed to be an interest in the unit for the purposes of subsection 1.

Ownership
of shares

(4) Where property that includes a matrimonial home is normally used for a purpose other than residential only, the matrimonial home is only such portion of the property as may reasonably be regarded as necessary to the use and enjoyment of the residence.

Residence
on farm-
land, etc.

40.—(1) A spouse is equally entitled to any right of possession of the other spouse in a matrimonial home.

Right to
possession

(2) Subject to an order of the court under this or any other Act, and subject to a separation agreement that provides otherwise, a right of a spouse to possession by virtue of subsection 1 ceases upon the spouse ceasing to be a spouse.

Termination
of right to
possession

Registered
designation
of
matrimonial
home

41.—(1) Both spouses may, by instrument in the form prescribed by the regulations, designate any property that is a matrimonial home and, upon the registration of the instrument and while there is a designation made by the spouses under this subsection that is not cancelled, any other property that would qualify as a matrimonial home under section 39 and that is not similarly designated ceases to be a matrimonial home.

Extent of
designation

(2) The property that is designated as a matrimonial home under subsection 1 may include any property contiguous to the matrimonial home that is described for the purpose in the instrument.

Cancellation
of
designation

(3) The designation of a matrimonial home under subsection 1 is cancelled upon the registration or deposit of,

- (a) an instrument in the form prescribed by the regulations executed by both spouses;
- (b) a decree absolute of divorce or judgment of nullity;
- (c) an order under section 45 cancelling the designation; or
- (d) proof of death of one of the spouses.

Effect of
cancellation

(4) Upon the cancellation of the designation of a property under subsection 3, the property ceases to be a matrimonial home under section 39.

Revival
of
matrimonial
homes

(5) Upon there ceasing to be a designation under subsection 1, section 39 applies in respect of property that is a matrimonial home.

Alienation of
matrimonial
home

42.—(1) No spouse shall dispose of or encumber any interest in a matrimonial home unless,

- (a) the other spouse joins in the instrument or consents to the transaction;
- (b) the other spouse has released all rights under this Part by a separation agreement;
- (c) the transaction is authorized by court order or an order has been made releasing the property as a matrimonial home; or
- (d) the property is not designated as a matrimonial home under section 41 and an instrument design-

nating another property as a matrimonial home of the spouses is registered under section 41 and not cancelled.

(2) Where a spouse disposes of or encumbers an interest in a matrimonial home in contravention of subsection 1, the transaction may be set aside on an application under section 44 unless the person holding the interest or encumbrance at the time of the application acquired it for value, in good faith and without notice that the property was at the time of the disposition, agreement or encumbrance a matrimonial home.

Setting
aside
transaction

(3) For the purposes of subsection 2, an affidavit of the person making the disposition or encumbrance,

Proof that
property
not a
matrimonial
home

(a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;

(b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

(c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or

(d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home.

(4) This section does not apply to the acquisition of an interest in property by operation of law or of a lien under section 18 of *The Legal Aid Act*.

Liens
arising by
operation
of law
R.S.O. 1970,
c. 239

43.—(1) Where a person is proceeding to realize upon a lien, encumbrance or execution or exercises a forfeiture against property that is a matrimonial home, the spouse who has a right of possession by virtue of section 40 has the same right of redemption or relief against forfeiture as the other spouse has and is entitled to any notice respecting the claim and its enforcement or realization to which the other spouse is entitled.

Right of
redemption
and to
notice

Service of
notice

(2) Any notice to which a spouse is entitled by virtue of subsection 1 shall be deemed to be sufficiently given if served or given personally or by registered mail addressed to the person to whom notice is to be given at his or her usual or last known address or, where none, the address of the matrimonial home, and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing.

Effect of
payments
made by
spouse

(3) Where a spouse makes any payment by way of or on account of redemption or relief against forfeiture under the right conferred by subsection 1, the payment shall be applied in satisfaction of the claim giving rise to the lien, encumbrance, execution or forfeiture.

Continuation
of
proceedings
in absence
of spouse

(4) Notwithstanding any other Act, where a person who commences a proceeding to realize upon a lien, encumbrance or execution or to exercise a forfeiture does not have sufficient particulars of a spouse entitled under subsection 1 for the purposes of the proceeding, and a notice given under subsection 2 is not responded to, the proceeding may continue in the absence of the spouse and without regard to the interest of the spouse and any final order in the proceeding terminates the rights of the spouse under this section.

Powers of
court
respecting
alienation

44. The court may, on the application of a spouse or person having an interest in property, by order,

- (a) determine whether or not property is the matrimonial home and, if so, its extent;
- (b) authorize the disposition or encumbrance of the matrimonial home where the court finds that the spouse whose consent is required,
 - (i) cannot be found or is not available,
 - (ii) is not capable of giving or withholding consent, or
 - (iii) is unreasonably withholding consent,

subject to such terms and conditions including provision of other comparable accommodation or payment in place thereof as the court considers appropriate;

- (c) dispense with any notice required to be given under section 43; and

- (d) direct the setting aside of any transaction disposing of or encumbering an interest in the matrimonial home contrary to subsection 1 of section 42 and the reversioning of the interest or any part of the interest upon such terms and subject to such conditions as the court considers appropriate.

45.—(1) Notwithstanding the ownership of a matrimonial home and its contents, and notwithstanding section 40, the court on application may by order, Order for possession of matrimonial home

- (a) direct that one spouse be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs and release any other property that is a matrimonial home from the application of this Part;
- (b) direct a spouse to whom exclusive possession of a matrimonial home is given to pay such periodic payments to the other spouse as is prescribed in the order;
- (c) direct that the contents of a matrimonial home, or any part thereof, remain in the home for the use of the person given possession;
- (d) fix the obligation to repair and maintain the matrimonial home or to pay other liabilities arising in respect thereof;
- (e) authorize the disposition or encumbrance of the interest of a spouse in a matrimonial home subject to the right to exclusive possession of the other spouse as ordered; and
- (f) where a false affidavit is given under subsection 3 of section 42, direct,
 - (i) the person who swore the false affidavit, or
 - (ii) any person who knew at the time it was sworn that the affidavit was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

(2) An order may be made under subsection 1 for temporary relief or pending the bringing or disposition of another application under this Act. Temporary possession

Order
where no
property
interest

(3) An order under subsection 1 for exclusive possession may be made only if, in the opinion of the court, other provision for shelter is not adequate in the circumstances or it is in the best interests of a child to do so.

Limitation
on
jurisdiction
of family
court

(4) A provincial court (family division) shall not make an order under clause *b* or *d* of section 44 or clause *e* or *f* of subsection 1.

Variation
of possessory
order

46.—(1) Upon the application of a person named in an order made under clause *a*, *b*, *c* or *d* of subsection 1 of section 45 or the personal representative of such person and where the court is satisfied that there has been a material change in circumstances, the court may discharge, vary or suspend the order.

Variation of
conditions
of sale

(2) Upon the application of a person who is subject to terms and conditions imposed in an order made under clause *b* of section 44 or his personal representative and where the court is satisfied that the terms and conditions are no longer appropriate, the court may discharge, vary or suspend the terms and conditions.

Interim
order for
preservation
of property

47. In an application under this Part, the court may make such interim order as it considers necessary for the delivering up, safekeeping and preservation of the matrimonial home or its contents.

Registration
of order
R.S.O. 1970,
cc. 409, 234

48. An order made under this Part is registrable against land under *The Registry Act* and *The Land Titles Act*.

Application
of Part

49.—(1) This Part applies to matrimonial homes that are situated in Ontario.

Idem

(2) This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before this Part comes into force;
- (b) the matrimonial home was acquired before this Part comes into force; or
- (c) a proceeding to determine the rights as between spouses in respect of property has been commenced or adjudicated before this Part comes into force.

PART IV

DOMESTIC CONTRACTS

50. In this Part,Interpre-
tation

- (a) “cohabitation agreement” means an agreement entered into under section 52;
- (b) “domestic contract” means a marriage contract, separation agreement or cohabitation agreement;
- (c) “marriage contract” means an agreement entered into under section 51;
- (d) “separation agreement” means an agreement entered into under section 53.

51.—(1) Two persons may enter into an agreement, before their marriage or during their marriage while cohabiting, in which they agree on their respective rights and obligations under the marriage or upon separation or the annulment or dissolution of the marriage or upon death, including,

Marriage
contracts

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and
- (d) any other matter in the settlement of their affairs.

(2) Any provision in a marriage contract purporting to limit the rights of a spouse under Part III in respect of a matrimonial home is void.

Rights re
matrimonial
home
excepted

52.—(1) A man and a woman who are cohabiting and not married to one another may enter into an agreement in which they agree on their respective rights and obligations during cohabitation, or upon ceasing to cohabit or death, including,

Cohabitation
agreements

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and

(d) any other matter in the settlement of their affairs.

Effect of
marriage on
agreement

(2) Where the parties to an agreement entered into under subsection 1 subsequently marry, the agreement shall be deemed to be a marriage contract.

Separation
agreements

53. A man and woman who cohabited and are living separate and apart may enter into an agreement in which they agree on their respective rights and obligations, including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children;
- (d) the right to custody of and access to their children; and
- (e) any other matter in the settlement of their affairs.

Form of
contract

54.—(1) A domestic contract and any agreement to amend or rescind a domestic contract are void unless made in writing and signed by the persons to be bound and witnessed.

Capacity
of minor

(2) A minor who has capacity to contract marriage has capacity to enter into a marriage contract or separation agreement that is approved by the court, whether the approval is given before or after the contract is entered into.

Agreement
on behalf of
mentally
incompetent

(3) The committee of a person who is mentally incompetent or, if the committee is the spouse of such person or, if there is no committee, the Public Trustee may, subject to the approval of the court, enter into a domestic contract or give any waiver or consent under this Act on behalf of the mentally incompetent person.

Contracts
subject
to best
interests
of child

55.—(1) In the determination of any matter respecting the support, education, moral training or custody of or access to a child, the court may disregard any provision of a domestic contract pertaining thereto where, in the opinion of the court, to do so is in the best interests of the child.

Dum casta
clauses

(2) A provision in a separation agreement or a provision in a marriage contract to take effect on separation whereby any right of a spouse is dependent upon remaining chaste is void, but this subsection shall not be construed to affect a contingency upon remarriage or cohabitation with another.

(3) A provision in a separation agreement made before ^{Idem} this section comes into force whereby any right of a spouse is dependent upon remaining chaste shall be given effect as a contingency upon remarriage or cohabitation with another.

56. Where a domestic contract provides that specific gifts ^{Rights of donors of gifts} made to one or both parties are not disposable or encumberable without the consent of the donor, the donor shall be deemed to be a party to the contract for the purpose of the enforcement or any amendment of the provision.

57. The manner and formalities of making a domestic ^{Contracts made outside Ontario} contract and its essential validity and effect are governed by the proper law of the contract, except that,

- (a) a contract for which the proper law is that of a jurisdiction other than Ontario, is also valid and enforceable in Ontario if entered into in accordance with the internal law of Ontario;
- (b) subsection 4 of section 18 and section 55 apply in Ontario to contracts for which the proper law is that of a jurisdiction other than Ontario; and
- (c) a provision in a marriage contract or cohabitation agreement respecting the right to custody of or access to children is not valid or enforceable in Ontario.

58.—(1) Where a man and a woman who are not spouses ^{Paternity agreements} enter into an agreement for,

- (a) the payment of the expenses of prenatal care and birth in respect of a child;
- (b) support of a child; or
- (c) burial expenses of the child or mother,

on the application of a party to the agreement or a children's aid society made to a provincial court (family division) or the Unified Family Court, the court may incorporate the agreement in an order, and Part II applies to the order in the same manner as if it were an order for support made under that Part.

(2) Where an application is made under subsection 1 ^{1 Absconding respondent} and a judge of the court is satisfied that the respondent is about to leave Ontario, the judge may issue a warrant in the

form prescribed by the rules of the court for the arrest of the respondent.

Capacity of
a minor

(3) A minor who has capacity to contract marriage has capacity to enter into an agreement under subsection 1 that is approved by the court, whether the approval is given before or after the agreement is entered into.

Application
to
pre-existing
agreements

(4) This section applies to agreements referred to in subsection 1 that were made before this Part comes into force.

Application
of Act to
pre-existing
contracts

59.—(1) A separation agreement or marriage contract validly made before this Part comes into force shall be deemed to be a domestic contract for the purposes of this Act.

Contracts
entered into
before
Part comes
into force

(2) Where a domestic contract is entered into in accordance with this Part before this Part comes into force and,

- (a) the contract or any part would be valid if entered into after this Part comes into force; and
- (b) the contract or part is entered into in contemplation of the coming into force of this Part,

the contract or part is not invalid for the reason only that it was entered into before this Part comes into force.

Idem

(3) Where pursuant to an understanding or agreement entered into before this Part comes into force by spouses who are living separate and apart, property is transferred, between them, the transfer is effective as if made pursuant to a domestic contract.

PART V

DEPENDANTS' CLAIM FOR DAMAGES

Right of
dependants
to sue in
tort

60.—(1) Where a person is injured or killed by the fault or neglect of another under circumstances where the person is entitled to recover damages, or would have been entitled if not killed, the spouse, as defined in Part II, children, grandchildren, parents, grandparents, brothers and sisters of the person are entitled to recover their pecuniary loss resulting from the injury or death from the person from whom the person injured or killed is entitled to recover or would have been entitled if not killed, and to maintain an action for the purpose in a court of competent jurisdiction. R.S.O. 1970, c. 164, s. 3 (1), *amended*.

Damages in
case of
injury

(2) The damages recoverable in a claim under subsection 1 may include,

- (a) actual out-of-pocket expenses reasonably incurred for the benefit of the injured person;
- (b) a reasonable allowance for travel expenses actually incurred in visiting the injured person during his treatment or recovery;
- (c) where, as a result of the injury, the claimant provides nursing, housekeeping or other services for the injured person, a reasonable allowance for loss of income or the value of the services; and
- (d) an amount to compensate for the loss of guidance, care and companionship that the claimant might reasonably have expected to receive from the injured person if the injury had not occurred.

(3) In an action under subsection 1, the right to damages is subject to any apportionment of damages due to contributory fault or neglect of the person who was injured or killed. *New.* Contributory negligence

(4) Not more than one action lies under subsection 1 for and in respect of the same occurrence, and no such action shall be brought after the expiration of two years from the time the cause of action arose. R.S.O. 1970, c. 164, s. 5; 1975, c. 38, s. 1. One action and limitation of actions

61.—(1) An action under subsection 1 of section 60 in respect of a person who is killed shall be commenced by and in the name of the executor or administrator of the deceased for the benefit of the persons entitled to recover under subsection 1 of section 60. R.S.O. 1970, c. 164, s. 3, *part, amended.* Executor to sue where death

(2) If there is no executor or administrator of the deceased, or if there is an executor or administrator and no such action is, within six months after the death of the deceased, brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by the executor or administrator. When action may be brought by persons beneficially interested

(3) Every action so brought is for the benefit of the same persons and is subject to the same regulations and procedure, as nearly as may be, as if it were brought by the executor or administrator. R.S.O. 1970, c. 164, s. 7. Regulations and procedure in such case

62.—(1) Where an action is commenced under section 60, the plaintiff shall, in his statement of claim, name and join the claim of any other person who is entitled to main- Joining claims

tain an action under section 60 in respect of the same injury or death and thereupon such person becomes a party to the action.

Affidavit

(2) A person who commences an action under section 60 shall file with the statement of claim an affidavit stating that to the best of his knowledge, information and belief the persons named in the statement of claim are the only persons who are entitled or claim to be entitled to damages under section 60. R.S.O. 1970, c. 164, s. 6 (1, 2), *amended*.

How money
may be paid
into court

63.—(1) The defendant may pay into court one sum of money as compensation for his fault or neglect to all persons entitled to compensation without specifying the shares into which it is to be divided. R.S.O. 1970, c. 164, s. 4.

Apportion-
ment

(2) Where the compensation has not been otherwise apportioned, a judge may, upon application, apportion it among the persons entitled.

When pay-
ment may
be
postponed

(3) The judge may in his discretion postpone the distribution of money to which minors are entitled and may direct payment from the undivided fund. R.S.O. 1970, c. 164, s. 8.

Assessment
of damages,
insurance

64.—(1) In assessing the damages in an action brought under this Part, the court shall not take into account any sum paid or payable as a result of the death or injury under a contract of insurance.

Funeral
expenses

(2) For the purposes of this Part, damages may be awarded for reasonable expenses actually incurred for the burial of the person in respect of whose death the action is brought. R.S.O. 1970, c. 164, s. 3 (2, 3), *amended*.

PART VI

AMENDMENTS TO THE COMMON LAW AND STATUTE LAW

Unity of legal
personality
abolished

65.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

Capacity of
married
person

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person. 1975, c. 41, s. 1 (1, 2).

Idem

(3) Without limiting the generality of subsections 1 and 2,

- (a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;
- (b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman; 1975, c. 41, s. 1 (3), *part.*
- (c) the same rules shall be applied to determine the domicile of a married woman as for a married man.

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed. 1975, c. 41, s. 1 (4).

Purpose
of subss.
1, 2

66. No person shall be disentitled from bringing an action or other proceeding against another for the reason only that they stand in the relationship of parent and child. 1975, c. 41, s. 3.

Actions
between
parent and
child

67. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. 1975, c. 41, s. 4.

Recovery for
prenatal
injuries

68.—(1) Subject to subsection 2, a child who is a minor,

Domicile
of minors

- (a) takes the domicile of his or her parents, where both parents have a common domicile;
- (b) takes the domicile of the parent with whom the child habitually resides, where the child resides with one parent only;
- (c) takes the domicile of the father, where the domicile of the child cannot be determined under clause *a* or *b*; or
- (d) takes the domicile of the mother, where the domicile of the child cannot be determined under clause *c*.

(2) The domicile of a minor who is or has been a spouse shall be determined in the same manner as if the minor were of full age.

Idem

69.—(1) No action shall be brought for criminal conversation or for any damages resulting therefrom or from adultery.

Criminal
conversation
abolished

Enticement
and
harbouring
of spouse
abolished

(2) No action shall be brought by a married person for the enticement or harbouring of the spouse of such person or for any damages resulting therefrom.

Loss of
consortium
abolished

(3) No action shall be brought by a married person for the loss of the consortium of his or her spouse or for any damages resulting therefrom.

Enticement,
harbouring,
seduction,
loss of
services
of child
abolished

(4) No action shall be brought by a parent for the enticement, harbouring, seduction or loss of services of his or her child or for any damages resulting therefrom.

R.S.O. 1970,
c. 428;
1971, c. 98,
Sched.,
par. 30,
repealed

(5) *The Seduction Act*, being chapter 428 of the Revised Statutes of Ontario, 1970 and paragraph 30 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed.

R.S.O. 1970,
c. 228, s. 59,
amended

(6) Section 59 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is amended by striking out "criminal conversation, seduction" in the first line.

Dower
abolished

70.—(1) The common law right of a widow to dower is hereby abolished.

R.S.O. 1970,
c. 135;
1971, c. 98,
Sched.,
par. 11,
repealed

(2) *The Dower Act*, being chapter 135 of the Revised Statutes of Ontario, 1970, and paragraph 11 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, are repealed.

R.S.O. 1970,
c. 152, s. 28 (2),
repealed

(3) Subsection 2 of section 28 of *The Execution Act*, being chapter 152 of the Revised Statutes of Ontario, 1970, is repealed.

Vested
right to
dower

(4) Subsections 1, 2 and 3 do not apply in respect of a right to dower that has vested before subsections 1 and 2 come into force.

Refund of
indemnity
held by
accountant
for dower

(5) Where money has been paid into court as an indemnity in respect of a right to dower that has not vested before this section comes into force, the husband of the person in respect of whose dower right the money was paid into court is entitled to be paid the money upon application to the accountant of the court, without order.

Alimony
abolished

71.—(1) The right of a married woman to alimony under any law existing before this section comes into force is hereby abolished.

(2) Where an action for alimony is commenced before subsection 1 comes into force and no evidence has been heard in the action before this Act comes into force, other than in respect of an interim order, the action shall be deemed to be an application under Part II subject to such directions as the court considers appropriate.

Continuation
of action
commenced

72. This Act applies to persons whose marriage was actually or potentially polygamous if the marriage was celebrated in a jurisdiction whose system of law recognizes the marriage as valid.

Polygamous
marriages

73.—(1) Subsection 4 of section 27 of *The Child Welfare Act*, being chapter 64 of the Revised Statutes of Ontario, 1970, is amended by striking out “*The Deserted Wives’ and Children’s Maintenance Act*” and inserting in lieu thereof “Part II of *The Family Law Reform Act, 1978*”.

R.S.O. 1970,
c. 64, s. 27 (4),
amended

(2) Part III of the said Act, as amended by the Statutes of Ontario, 1971, chapter 98, Schedule, paragraph 6, subparagraph ii, 1972, chapter 109, section 6, 1973, chapter 75, section 5 and 1975, chapter 1, sections 25, 26, 27 and 28, is repealed.

Part III,
repealed

74. *The Children’s Maintenance Act*, being chapter 67 of the Revised Statutes of Ontario, 1970 and subsection 2 of section 18 of *The Age of Majority and Accountability Act*, 1971, being chapter 98, are repealed.

R.S.O. 1970,
c. 67;
1971, c. 98,
s. 18 (2),
repealed

75. Section 4 of *The Creditors Relief Act*, being chapter 97 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

R.S.O. 1970,
c. 97, s. 4 (9),
amended

(9) This section does not apply to an attachment made under section 30 of *The Family Law Reform Act, 1978*.

1978, c. ...
exempted

76. *The Deserted Wives’ and Children’s Maintenance Act*, being chapter 128 of the Revised Statutes of Ontario, 1970, subsection 1 of section 18 of *The Age of Majority and Accountability Act, 1971*, being chapter 98, and *The Deserted Wives’ and Children’s Maintenance Amendment Act, 1973*, being chapter 133, are repealed.

R.S.O. 1970,
c. 128,
1971, c. 98,
s. 18 (1);
1973, c. 133,
repealed

77. Section 9 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor:

1974, c. 122,
s. 9,
re-enacted

9. No employer shall dismiss or suspend an employee on the ground that garnishment proceedings are or

Garnish-
ment or
attachment
of wages

1978, c. ... may be taken against the employee or that an attachment order under section 30 of *The Family Law Reform Act, 1978* has been or may be made against the employee.

1975, c. 41,
ss. 1-4,
repealed **78.** Sections 1, 2, 3 and 4 of *The Family Law Reform Act, 1975*, being chapter 41, are repealed.

R.S.O. 1970,
c. 164;
1973, c. 16;
1975, c. 38,
repealed **79.** *The Fatal Accidents Act*, being chapter 164 of the Revised Statutes of Ontario, 1970, *The Fatal Accidents Amendment Act, 1973*, being chapter 16, and *The Fatal Accidents Amendment Act, 1975*, being chapter 38, are repealed.

R.S.O. 1970,
c. 222,
amended **80.**—(1) *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is amended by striking out,

(a) subsection 4, subsection 4a, as enacted by the Statutes of Ontario, 1971, chapter 98, section 18, and subsection 5 of section 1;

(b) subsection 2 of section 2;

(c) sections 10, 13 and 14; and

(d) section 15, as re-enacted by the Statutes of Ontario, 1971, chapter 98, section 16.

1971, c. 98,
s. 18 (3),
Sched., par. 14,
subpar. 1,
repealed (2) *The Age of Majority and Accountability Act, 1971*, being chapter 98, is amended by striking out,

(a) section 16;

(b) subsection 3 of section 18; and

(c) subparagraph i of paragraph 14 of the Schedule.

R.S.O. 1970,
c. 228, s. 81,
repealed **81.**—(1) Subject to subsection 2, section 81 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed.

Continu-
ance for
existing
judgments (2) The provision repealed by subsection 1 remains in force in respect of a judgment for alimony in an action commenced before this section comes into force.

s. 118 (3),
amended (3) Subsection 3 of section 118 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 30, section 7, is further amended by striking out "alimony or for the main-

tenance or custody of children is joined with" in the amendment of 1975 and inserting in lieu thereof "other relief is joined in".

82. Sections 1 and 12 of *The Married Women's Property Act*, being chapter 262 of the Revised Statutes of Ontario, 1970, are repealed. R.S.O. 1970,
c. 262, ss. 1, 12,
repealed

83. Sections 1, 2, 3, 4 and 5, subsection 6 of section 6 and section 8 of *The Matrimonial Causes Act*, being chapter 265 of the Revised Statutes of Ontario, 1970 and subsection 4 of section 18 of *The Age of Majority and Accountability Act*, 1971, being chapter 98, are repealed. R.S.O. 1970,
c. 265, ss. 1-5,
6 (6), 8;
1971, c. 98,
s. 18 (4),
repealed

84. *The Parents' Maintenance Act*, being chapter 336 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970,
c. 336,
repealed

85. Section 24 of *The Pension Benefits Act*, being chapter 342 of the Revised Statutes of Ontario, 1970 is amended by adding thereto the following subsection: R.S.O. 1970,
c. 342,
s. 24,
amended

- (2) Subsection 1 does not apply to the execution, seizure or attachment of moneys payable under a pension plan in satisfaction of an order for support under *The Family Law Reform Act*, 1978. Application
of subs. 1

1978, c. ...

86.—(1) Subject to subsection 2, section 25 of *The Provincial Courts Act*, being chapter 369 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970,
c. 369, s. 25,
repealed

(2) Every order or judgment filed under section 25 of *The Provincial Courts Act* before subsection 1 comes into force shall be deemed to have been filed under section 27 of this Act with the request therein mentioned. Transition
for existing
orders
R.S.O. 1970,
c. 369

87.—(1) *The Reciprocal Enforcement of Maintenance Orders Act*, being chapter 403 of the Revised Statutes of Ontario, 1970, is amended by striking out "summons" in each case where it appears and inserting in lieu thereof "notice of application". R.S.O. 1970,
c. 403,
amended

(2) Subsection 3 of section 2 of the said Act is amended by striking out "*The Deserted Wives' and Children's Maintenance Act*" and inserting in lieu thereof "Part II of *The Family Law Reform Act*, 1978". Idem
s. 3 (2),
amended

88. Section 4 of *The Statute of Frauds*, being chapter 444 of the Revised Statutes of Ontario, 1970, is amended by R.S.O. 1970,
c. 444, s. 4,
amended

striking out “any agreement made upon consideration of marriage, or upon” in the fifth and sixth lines.

Application
of ss. 69, 73, 74,
76, 79, 80, 82,
83 and 84

89. Sections 69, 73, 74, 76, 79, 80, 82, 83 and 84 apply in all cases when they come into force except in cases where an action or proceeding was commenced under the abolished, repealed or amended provision before that date.

GENERAL

Regulations

90. The Lieutenant Governor in Council may make regulations respecting any matter required to be or referred to as prescribed by the regulations.

Commence-
ment

91. This Act comes into force on the 31st day of March, 1978.

Short title

92. The short title of this Act is *The Family Law Reform Act, 1978*.

An Act to reform the Law respecting
Property Rights and Support Obligations
between Married Persons and in other
Family Relationships

1st Reading

February 21st, 1978

2nd Reading

February 21st, 1978

3rd Reading

March 16th, 1978

THE HON. R. McMurtry
Attorney General

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244 BILL 60

Government Bill

Government
Publications

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

Legislative Assembly

An Act to amend The Retail Sales Tax Act



THE HON. L. MAECK
Minister of Revenue

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Bill forms part of the joint federal-provincial Economic Stimulation Program. It provides generally for the reduction of sales tax from 7 per cent to 4 per cent on the purchase of all tangible personal property and taxable services. This reduction of sales tax to 4 per cent is for the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978. In addition, the 10 per cent rate of tax applicable to liquor, beer or wine and prepared meals sold at a price of over \$6 is reduced to 7 per cent for the same period. This reduction does not, however, apply to liquor, beer or wine purchased at government liquor stores, Brewers' Warehousing Company Limited, or stores owned and operated by the manufacturers of beer or Ontario wine.

SECTION 1. Subsection 3a of section 2 of the Act provided for a temporary reduction of sales tax in the year 1975 and its effect is spent.

The re-enacted subsection 3a provides that for the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978, the amount of sales tax imposed upon tangible personal property or taxable services is 4 per cent of the fair value thereof.

The new subsection 3b provides that for the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978, the tax imposed on liquor, beer or wine and prepared meals sold at a price of over \$6 is 7 per cent of the fair value thereof. The rate of tax ordinarily applicable thereto is 10 per cent.

The new subsection 3c provides that the reduction in sales tax from 10 per cent to 7 per cent of the fair value of liquor, beer or wine does not apply to spirits, beer or wine sold through a government store established under *The Liquor Control Act, 1975* or to beer and Ontario wine sold through stores owned and operated by the manufacturers or the Brewers' Warehousing Company Limited.

BILL 60

1978

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3a of section 2 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is repealed and the following substituted therefor:

s. 2 (3a),
re-enacted

(3a) Notwithstanding subsections 1, 3 and 11, during the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978, the tax imposed by subsections 1, 3 and 11 shall be at the rate of 4 per cent of the fair value of the tangible personal property or taxable service respectively made liable to tax under the said subsections during such period.

Temporary
reduction of
tax under
subs. 1, 3, 11

(3b) Notwithstanding subsection 2 but subject to subsection 3c, during the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978, the tax imposed by subsection 2 shall be at the rate of 7 per cent of the fair value of liquor, beer or wine and prepared meals sold at a price of over \$6.00 made liable to tax under the said subsection during such period.

Temporary
reduction of
tax under
subs. 2

(3c) Subsection 3b does not apply to liquor, beer or wine sold through,

Non-applica-
tion of
subs. 3b

(a) a government store established or authorized by the Liquor Control Board of Ontario under *The Liquor Control Act, 1975*; or

1975, c. 27

(b) any establishment authorized under clause e of section 3 of *The Liquor Control Act, 1975* to sell beer or Ontario wine.

Commence-
ment

2. This Act shall be deemed to have come into force on the 11th day of April, 1978.

Short title

3. The short title of this Act is *The Retail Sales Tax Amendment Act, 1978*.

SECTION 2. The effective date of these changes is April 11th, 1978.

BILL 60

An Act to amend
The Retail Sales Tax Act

1st Reading

April 11th, 1978

2nd Reading

3rd Reading

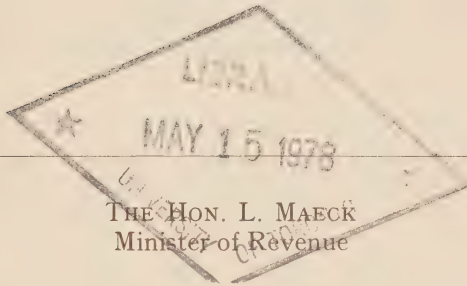
THE HON. L. MAECK
Minister of Revenue

(Government Bill)

47
-1356
BILL 60

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Retail Sales Tax Act



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 60

1978

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3a of section 2 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 9, section 2, is repealed and the following substituted therefor: s. 2 (3a),
re-enacted

(3a) Notwithstanding subsections 1, 3 and 11, during the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978, the tax imposed by subsections 1, 3 and 11 shall be at the rate of 4 per cent of the fair value of the tangible personal property or taxable service respectively made liable to tax under the said subsections during such period. Temporary
reduction of
tax under
subss. 1, 3, 11

(3b) Notwithstanding subsection 2 but subject to subsection 3c, during the period commencing on the 11th day of April, 1978 and ending with the 7th day of October, 1978, the tax imposed by subsection 2 shall be at the rate of 7 per cent of the fair value of liquor, beer or wine and prepared meals sold at a price of over \$6.00 made liable to tax under the said subsection during such period. Temporary
reduction of
tax under
subs. 2

(3c) Subsection 3b does not apply to liquor, beer or wine sold through, Non-applica-
tion of
subs. 3b

(a) a government store established or authorized by the Liquor Control Board of Ontario under *The Liquor Control Act, 1975*; or 1975, c. 27

(b) any establishment authorized under clause e of section 3 of *The Liquor Control Act, 1975* to sell beer or Ontario wine.

Commence-
ment

- 2.** This Act shall be deemed to have come into force on the 11th day of April, 1978.

Short title

- 3.** The short title of this Act is *The Retail Sales Tax Amendment Act, 1978*.

BILL 60

An Act to amend
The Retail Sales Tax Act

1st Reading

April 11th, 1978

2nd Reading

May 2nd, 1978

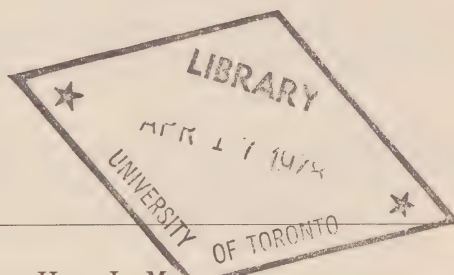
3rd Reading

May 2nd, 1978

THE HON. L. MAECK
Minister of Revenue

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Income Tax Act



THE HON. L. MAECK
Minister of Revenue

EXPLANATORY NOTES

The joint federal-provincial Economic Stimulation Program is to be implemented in Ontario by two legislative changes. *The Retail Sales Tax Act* is to be amended to reduce the rate of retail sales tax in Ontario by 3 percentage points. The federal share of the costs of the Program equal to two points of the reduction in Ontario's sales tax will be recovered by Ontario through the mechanism of a temporary tax imposed by Ontario under this Act equal to the amount of a federal tax abatement for the 1978 taxation year. This tax will be collected by the Government of Canada for Ontario pursuant to the Canada-Ontario Tax Collection Agreement. The changes will produce no change in the amount of tax paid by an individual. Only the relative federal-provincial share of tax will be altered.

SECTION 1. A new subsection 2*a* is added to section 3 of the Act to impose for the 1978 taxation year an additional tax equal to the amount of the federal tax abatement. The new subsection 2*b* provides that the additional tax imposed under subsection 2*a* is not to be taken into account in determining instalment payment of taxes or in determining Ontario tax credits.

SECTION 2. Two new clauses are added to subsection 1 of section 27 to authorize the Lieutenant Governor in Council to make regulations providing for the calculation of certain amounts for the purposes of the new section 48*a* enacted by section 3 of this Bill.

SECTION 3. A new section 48*a* is added to provide for the collection of the tax imposed by new subsection 2*a* of section 3.

BILL 61

1978

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections: s. 3,
amended

(2a) In addition to the tax payable under subsections 1 and 2, an individual, other than a trust, who resided in Ontario on the 31st day of December, 1978 shall pay a tax for the 1978 taxation year equal to the amount deductible by him pursuant to any provision of the Federal Act based on paragraph 13 of the Notice of Ways and Means Motion to Amend the *Income Tax Act* (Canada) tabled in the House of Commons on April 10th, 1978. Federal
abatement

(2b) The tax payable under subsection 2a shall not be taken into consideration in determining the payments required to be made by section 11 or 12 or in determining any payment or deduction authorized by section 6b. Instalment
payments
not affected

2. Subsection 1 of section 27 of the said Act is amended by adding thereto the following clauses: s. 27 (1),
amended

(ba) providing for the calculation of the "federal share of the costs of the 1978 Economic Stimulation Program" for the purposes of section 48a;

(bb) providing for the calculation of the adjusting payment under subsection 4 of section 48a; and

.

3. The said Act is amended by adding thereto the following section: s. 48a,
enacted

Authority
to collect
tax

48a.—(1) Where a collection agreement is entered into pursuant to section 48, the Government of Canada may collect the tax payable under subsection 2a of section 3 on behalf of Ontario.

Authority
to make
adjusting
payment

(2) Where the aggregate of payments made to Ontario pursuant to subsection 1 exceeds the "federal share of the costs of the 1978 Economic Stimulation Program", as prescribed, the Treasurer may make an adjusting payment which shall be paid out of the Consolidated Revenue Fund to the Government of Canada.

Idem

(3) Where a collection agreement is entered into, the whole or any part of the amount of an adjusting payment that may be made pursuant to subsection 2 may be recovered by the Government of Canada in accordance with the terms and conditions contained in the collection agreement providing for the recovery of any amount received by Ontario in excess of the amount to which it is entitled.

Calculation
of adjusting
payment

(4) The amount of the adjusting payment to be made under subsection 2 shall be the amount calculated in the prescribed manner by which the aggregate of payments made to Ontario pursuant to subsection 1 exceeds the "federal share of the costs of the 1978 Economic Stimulation Program".

Commence-
ment

4. This Act shall be deemed to have come into force on the 11th day of April, 1978.

Short title

5. The short title of this Act is *The Income Tax Amendment Act, 1978*.

Subsection 1 authorizes the Government of Canada to collect the federal tax abatement on behalf of Ontario pursuant to the terms of the existing Canada-Ontario Tax Collection Agreement.

Subsection 2 authorizes the Treasurer to make an adjusting payment where the instalment payments made to Ontario by the Government of Canada exceed the federal share of the costs of the Economic Stimulation Program.

Subsection 3 authorizes the recovery, according to the terms of the Tax Collection Agreement, of that part of the adjusting payment which represents the amount by which the instalment payments exceed the amount to which Ontario would be entitled by virtue of the tax imposed by subsection 2*a* of section 3. The difference between the amount to which Ontario is entitled and the actual federal share of the Program costs is authorized to be paid by the Treasurer pursuant to subsection 2.

Subsection 4 provides for the calculation of the adjusting payment.

SECTION 4. The effective date of these changes is April 11th, 1978.

An Act to amend
The Income Tax Act

1st Reading

April 11th, 1978

2nd Reading

3rd Reading

THE HON. L. MAECK
Minister of Revenue

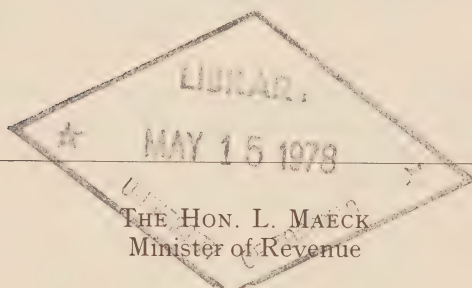
(Government Bill)

1356

BILL 61

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Income Tax Act



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 61

1978

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsections: s. 3.
amended

(2a) In addition to the tax payable under subsections 1 and 2, an individual, other than a trust, who resided in Ontario on the 31st day of December, 1978 shall pay a tax for the 1978 taxation year equal to the amount deductible by him pursuant to any provision of the Federal Act based on paragraph 13 of the Notice of Ways and Means Motion to Amend the *Income Tax Act* (Canada) tabled in the House of Commons on April 10th, 1978. Federal
abatement

(2b) The tax payable under subsection 2a shall not be taken into consideration in determining the payments required to be made by section 11 or 12 or in determining any payment or deduction authorized by section 6b. Instalment
payments
not affected

2. Subsection 1 of section 27 of the said Act is amended by adding thereto the following clauses: s. 27 (1),
amended

(ba) providing for the calculation of the "federal share of the costs of the 1978 Economic Stimulation Program" for the purposes of section 48a;

(bb) providing for the calculation of the adjusting payment under subsection 4 of section 48a; and

.

3. The said Act is amended by adding thereto the following section: s. 48a,
enacted

Authority
to collect
tax

48a.—(1) Where a collection agreement is entered into pursuant to section 48, the Government of Canada may collect the tax payable under subsection 2a of section 3 on behalf of Ontario.

Authority
to make
adjusting
payment

(2) Where the aggregate of payments made to Ontario pursuant to subsection 1 exceeds the "federal share of the costs of the 1978 Economic Stimulation Program", as prescribed, the Treasurer may make an adjusting payment which shall be paid out of the Consolidated Revenue Fund to the Government of Canada.

Idem

(3) Where a collection agreement is entered into, the whole or any part of the amount of an adjusting payment that may be made pursuant to subsection 2 may be recovered by the Government of Canada in accordance with the terms and conditions contained in the collection agreement providing for the recovery of any amount received by Ontario in excess of the amount to which it is entitled.

Calculation
of adjusting
payment

(4) The amount of the adjusting payment to be made under subsection 2 shall be the amount calculated in the prescribed manner by which the aggregate of payments made to Ontario pursuant to subsection 1 exceeds the "federal share of the costs of the 1978 Economic Stimulation Program".

Commence-
ment

4. This Act shall be deemed to have come into force on the 11th day of April, 1978.

Short title

5. The short title of this Act is *The Income Tax Amendment Act, 1978*.

An Act to amend
The Income Tax Act

1st Reading

April 11th, 1978

2nd Reading

May 2nd, 1978

3rd Reading

May 2nd, 1978

THE HON. L. MAECK
Minister of Revenue

Private Member's Bill

LIBRARY

2ND SESSION, 31ST LEGISLATURE, ONTARIO
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UNIVERSITY OF TORONTO

An Act to amend The Niagara Escarpment Planning and Development Act, 1973

MR. McKESSOCK

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to reduce the size of the Niagara Escarpment Planning Area to include only those lands included in the Scarp and Scarp Protection Area described in the maps and Schedule A accompanying the Preliminary Proposals issued by the Niagara Escarpment Planning Commission of the 14th day of February, 1978.

The Bill places the authority to issue development permits in the Niagara Escarpment Commission or a municipality, as the Minister may determine. The Bill also provides that an appeal from a decision of the issuing body arising from an application for a development permit may be made to the Ontario Municipal Board.

In addition, the Bill requires that, upon application, a development permit shall be issued for any lot existing as of the 14th day of February, 1978, unless the Government of Ontario gives notice that it intends to acquire the lot at its fair market value, within one year of the date upon which application was made.

BILL 62

1978

**An Act to amend
The Niagara Escarpment Planning and
Development Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 1 of *The Niagara Escarpment Planning and Development Act, 1973*, being chapter 52, as amended by the Statutes of Ontario, 1975, chapter 68, section 1 and 1976, chapter 35, section 1, is further amended by adding thereto the following clause:

s. 1,
amended

(da) “Municipal Board” means the Ontario Municipal Board.
- (2) Clause *f* of the said section 1 is repealed and the following substituted therefor:

s. 1 (f),
re-enacted

(f) “Niagara Escarpment Planning Area” means the planning area established as such under this Act.
2. Subsection 1 of section 3 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 52, section 1, is repealed and the following substituted therefor:

s. 3 (1),
re-enacted

(1) There is hereby established as the Niagara Escarpment Planning Area the area of land in Ontario described in the Schedule to this Act.

Establishment of
Niagara
Escarpment
Planning
Area
3. Clause *b* of subsection 2 of section 22a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 52, section 3, is repealed and the following substituted therefor:

s. 22a (2) (b),
re-enacted

(b) providing for the issuance of development permits by the Commission, or a county, regional municipality or city outside a regional municipality and designating the body having authority to issue

development permits in each part of the Niagara Escarpment Planning Area.

s. 23,
re-enacted

4. Section 23 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 35, section 4, is repealed and the following substituted therefor:

Develop-
ment
permits

23.—(1) Where an area of development control is established by regulation made under section 22, no person shall undertake any development in the area unless such development is exempt under the regulations or unless a development permit is issued in respect of the development.

Other
permits

(2) No building permit or other permit relating to development shall be issued in respect of any land, building or structure within an area of development control, unless a development permit has been issued under this Act relating to such land, building or structure, and no such building or other permit shall be issued that does not conform to the development permit.

Offence

(3) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000.

Order to
demolish,
etc.

(4) Where any person undertakes any development that is in contravention of subsection 1, the body having authority to issue the development permit may order such person to demolish any building or structure erected in connection with the development or to restore the site to the condition it was in prior to the undertaking of the development, or both, within such time as the order specifies.

Cost of
work

(5) Where a person to whom an order is directed under subsection 5 fails to comply with the order within the time specified in it, the body that made the order may cause the necessary work to be done and charge such person with the cost thereof, which cost may be recovered with costs in any court of competent jurisdiction.

s. 24.
re-enacted

5. Section 24 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 52, section 4, is repealed and the following substituted therefor:

Commission,
etc.,
power of
decision

24.—(1) The Commission or the council of a county, regional municipality or city having authority to issue a development permit, on receiving an application for a development permit and, after giving consideration to the merits of the application, may make a decision to issue the development permit or to refuse to issue the permit or

to issue the permit subject to such terms and conditions as it considers desirable.

Notifica-
tion of
decision

(2) The Commission, county, regional municipality or city shall by regular or registered mail cause a copy of the decision made by it on any application for a development permit to be mailed to the Minister, to the applicant for the permit and to all assessed owners of land lying within 400 feet of the land that is the subject of the application and every copy of such decision shall include a notice specifying that any person receiving a copy of the decision, other than the Minister, may, within fourteen days of the mailing of it, appeal in writing to the Municipal Board against the decision.

Appeal to
O.M.B.

(3) Where the Municipal Board receives one or more notices of appeal under subsection 2, the Board shall hear the appeal and either dismiss the same or direct that the development permit be issued subject to such terms or conditions, if any, as the Board considers desirable, and the decision of the Board shall be final.

Notice of
appeal

(4) Notice of an appeal to the Municipal Board under subsection 2 shall be given to such persons in such manner as the Board may direct.

s. 25,
re-enacted

- 6.** Section 25 of the said Act is repealed and the following substituted therefor:

Where
development
permits
shall be
issued

25. Notwithstanding anything in sections 23 and 24, where the owner of a lot or parcel of land, the description of which has not been altered since the 14th day of February, 1978, applies for a development permit in respect of the lot or parcel of land, the Commission, county, regional municipality or city, as the case may be, having authority to issue the development permit shall issue the development permit to the owner unless it is given notice that the Minister intends to acquire the lot or land under section 18 within one year from the day of application for an amount equal to the fair market value of the lot or land.

Schedule
enacted

- 7.** The said Act is amended by adding thereto the following Schedule:

SCHEDULE

NIAGARA ESCARPMENT PLANNING AREA

1. All lands contained in the area described as the Scarp and Scarp Protection Area on the maps and Schedule A accompanying the Preliminary Proposals issued by the Niagara Escarpment Planning Commission on the 14th day of February, 1978.

2. All lands owned by the Province of Ontario that abut lands contained in the Scarp and Scarp Protection Area.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is *The Niagara Escarpment Planning and Development Amendment Act, 1978*.

An Act to amend
The Niagara Escarpment Planning
and Development Act, 1973

1st Reading

April 13th, 1978

2nd Reading

3rd Reading

MR. McKESSOCK

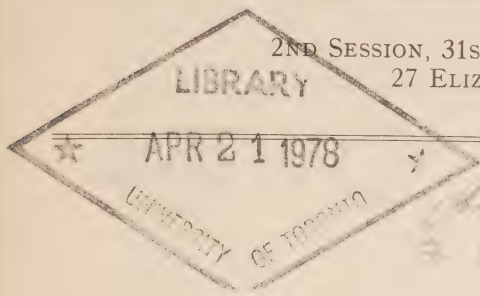
(Private Member's Bill)

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Government
Publications

342 **BILL 63**

Private Member's Bill



2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act respecting The Official Languages of Ontario

MR. SAMIS

EXPLANATORY NOTE

The purpose of this Bill is to establish French and English as the official languages of Ontario. The Bill defines the extent to which both official languages are to be used in the Legislative Assembly by the Government of Ontario and in proceedings before judicial and quasi-judicial bodies.

BILL 63

1978

An Act respecting The Official Languages of Ontario

WHEREAS the English and French languages are recognized as official languages in Canada; and whereas the Franco-Ontarian community has been and continues to be a vital partner in the growth, development and cultural enrichment of Ontario;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Inter-
pretation

- (a) "proceedings" includes, when applied to a court of record or statutory tribunal, all pleadings and process in or issuing from and written submissions to and oral arguments before the court or tribunal;
- (b) "regulation" includes rules, orders, and by-laws;
- (c) "statutory tribunal" means one or more persons, whether or not incorporated and however described, upon which is conferred by or under a statute a power or right to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not.

2. The English and French languages are the official languages of Ontario for all purposes to which the authority

Declaration
of status

of the Legislative Assembly extends, and possess and enjoy equality of status and equal rights and privileges as to their use in all institutions of the Assembly and Government of Ontario.

Use of
official
languages
in Legis-
lative
Assembly

3.—(1) Either of the official languages may be used by any person in proceedings of the Legislative Assembly or a committee thereof and the record of debates, journals and Order Paper of the Assembly shall be printed in both official languages.

Idem

(2) Every Bill, resolution, motion or petition introduced in the Assembly may be in either or both of the official languages.

Statutes
to be
printed and
published
in both
official
languages

4.—(1) The Statutes of Ontario shall be printed and published in both official languages.

Regula-
tions and
proclama-
tions

(2) Any regulation and proclamation that is made or issued by or under the authority of any Act of the Legislative Assembly and is required to be published in *The Ontario Gazette* shall be made or issued and published accordingly in both official languages.

Orders and
judgments

(3) All orders and judgments, including any reasons given therefor, issued by any court of record or statutory tribunal established by or pursuant to an Act of the Legislative Assembly of Ontario shall be issued in both official languages where the order or judgment determines a question of law or policy of general public interest or importance or where the proceedings leading to its issue were conducted in whole or in part in both official languages.

Construc-
tion

(4) In construing an Act, regulation or proclamation that is printed and published in the official languages, both versions are equally authentic.

Where
versions
may be
issued at
different
times

(5) Where an authority responsible for the making or issuance of a regulation, proclamation, order or judgment is of the opinion that to make or issue it in both official languages would cause a delay prejudicial to the public interest or result in injustice or hardship to a person affected thereby, the regulation, proclamation, order or judgment may be issued in the first instance in one of the official languages and thereafter, within such time as is reasonable in the circumstances, shall be issued in the other official language and the latter version is deemed to be effective from the time the first is effective.

5.—(1) Every ministry of the Government of Ontario and every board, commission, corporation or other agency thereof has the duty to ensure that members of the public can obtain available services from and can communicate with it in both official languages, Ministries to provide service in both official languages

(a) at its head or central office location; and

(b) at any other office location where there is a significant demand for services in both official languages.

(2) Every ministry, board, commission, corporation or other agency of the Government of Ontario that is required by an Act of the Legislative Assembly to lay an annual report before the Assembly shall include as part of that report a description of the extent to which it provides services to the members of the public in both official languages. Report

6.—(1) Either of the official languages may be used by a person in a proceeding before a court of record or statutory tribunal but, upon application by a party to the proceedings and subject to subsection 2, a court or statutory tribunal may order that proceedings be conducted wholly or partially in one of the official languages where, in the opinion of the court, the balance of convenience favours such an order and no party will be prejudiced thereby. Courts and tribunals

(2) Every court of record or statutory tribunal has in any proceedings brought or taken before it the duty to ensure that any person giving evidence before it may be heard in the official language of his choice. Evidence

7.—(1) In this section, “ministry” means a ministry of the Government of Ontario and every board, commission, corporation or other agency thereof. Interpretation

(2) Where, upon the submission of a Minister, it is established to the satisfaction of the Lieutenant Governor in Council that the immediate application of any provision of this Act to a ministry, court of record or statutory tribunal or any service provided by it, Where application of Bill may be deferred or suspended

(a) would unduly prejudice the interests of the ministry;

(b) would unduly prejudice the interests of persons undertaking or affected by proceedings before a court of record or statutory tribunal; or

- (c) would be seriously detrimental to the effective administration of the ministry, court of record or statutory tribunal,

the Lieutenant Governor in Council may by order defer or suspend the application of this Act or a part thereof to the ministry, court of record or statutory tribunal for such period and to such extent as the Lieutenant Governor in Council deems necessary or expedient.

Terms of
order

(3) Any order made under this section may contain such directions and be subject to such terms and conditions as the Lieutenant Governor in Council considers appropriate to ensure the earliest possible application of any deferred or suspended provision provided for in the order.

Order to
be laid
before
Assembly

(4) A copy of an order made under this section shall be laid before the Assembly by the Lieutenant Governor within fifteen days of making the order if the Assembly is in session or, if not, at the commencement of the next ensuing session.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is *The Ontario Official Languages Act, 1978*.

An Act respecting The Official
Languages of Ontario

1st Reading

April 13th, 1978

2nd Reading

3rd Reading

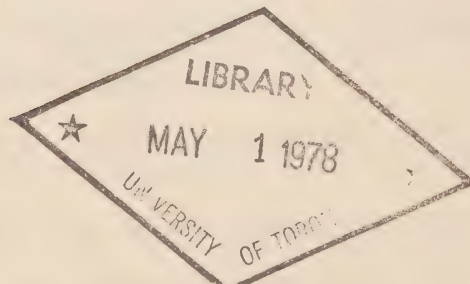
MR. SAMIS

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Legislative Assembly Act

MR. BREAGH



TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to place the whole of the Legislative Building and grounds under the control of the Speaker. The amendment follows a recommendation of the Ontario Commission on the Legislature and a select committee of the Assembly established to study the Commission's report.

BILL 64

1978

An Act to amend The Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 93 of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1974, chapter 116, section 3, is repealed and the following substituted therefor:

s. 93,
re-enacted

93.—(1) All parts of the Legislative Building and the grounds adjacent thereto shall be under the control of the Speaker.

Speaker
control
over
Legislative
Building

(2) The Speaker may call upon any ministry or agency of the Crown to provide any service or commodity for or on behalf of the Assembly or in respect of the Legislative Building or grounds adjacent thereto and the ministry or agency shall provide such service or commodity upon such terms and conditions as the ministry or agency and the Speaker may decide.

Provision
of services,
commodities
for
Assembly,
etc.

(3) The Speaker shall establish guidelines for the security of the Legislative Chamber, the other parts of the Legislative Building, and the grounds adjacent thereto.

Security
guidelines

2. Section 94 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 116, section 3, is repealed.

s. 94,
repealed
3. This Act comes into force on the 1st day of November, 1978.

Commence-
ment
4. The short title of this Act is *The Legislative Assembly Amendment Act, 1978*.

Short title

An Act to amend
The Legislative Assembly Act

1st Reading

April 14th, 1978

2nd Reading

3rd Reading

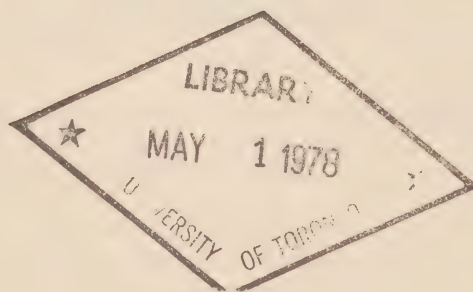
MR. BREAUGH

(Private Member's Bill)

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to amend The Labour Relations Act

MR. BREAGH



EXPLANATORY NOTE

The purpose of this Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill.

BILL 65

1978

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 59a,
enacted

59a.—(1) In this section,

Interpre-
tation

- (a) “employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;
- (b) “legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless, Unlawful
employment

- (a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or
- (b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless, Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;
- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection 3 enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection 3 or who, upon gaining entry, performs work contrary to subsection 2, commits a trespass and is liable to proceedings under *The Petty Trespass Act*.

R.S.O. 1970,
c. 347

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Labour Relations Amendment Act, 1978*.

An Act to amend
The Labour Relations Act

1st Reading

April 14th, 1978

2nd Reading

3rd Reading

MR. BREUGH

(Private Member's Bill)

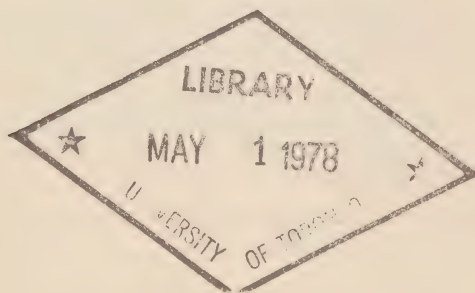
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BILL/66

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to provide for Municipal Hydro-Electric Service in
The Regional Municipality of York**

Regional Municipality
THE HON. R. BAETZ
Minister of Energy



EXPLANATORY NOTE

The Bill establishes new municipal hydro-electric commissions for the municipalities of Aurora, Georgina, King, Markham, Newmarket, Richmond Hill, Vaughan and Whitchurch-Stouffville and provides for the future establishment of a municipal hydro-electric commission for the Township of East Gwillimbury.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine at a future date whether the members of its commission should be elected or appointed.

Customers within Aurora, Markham, Newmarket, Richmond Hill and Vaughan presently served by Ontario Hydro's rural retail power distribution system will be supplied with power by the new commissions.

Customers within Georgina, King and Whitchurch-Stouffville presently served by Ontario Hydro will continue to be served by Ontario Hydro until the area municipal council directs the commission to expand its service area to the municipal boundaries. All customers in East Gwillimbury will continue to be served by Ontario Hydro until the area council establishes a hydro-electric commission under section 3 of the Bill.

Also, the council of Georgina, King or Whitchurch-Stouffville may dissolve a commission established by or under this Bill and on the dissolution Ontario Hydro will commence to distribute and supply power in all areas of the municipality.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 66

1978

An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of York

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" has the same meaning as in *The Regional Municipality of York Act*; R.S.O. 1970,
c. 408
- (c) "hydro-electric commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of York Act* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; R.S.O. 1970,
c. 390
- (d) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King is hereby established, and each commission shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,
cc. 390, 354

Composition,
Aurora
Hydro-
Electric
Commission

(2) The commission for the Town of Aurora established by subsection 1 shall be known as the Aurora Hydro-Electric Commission and shall consist of the mayor of the Town of Aurora and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Aurora.

1977, c. 62

Composition,
Markham
Hydro-
Electric
Commission

(3) The commission established for the Town of Markham by subsection 1 shall be known as the Markham Hydro-Electric Commission and shall consist of the mayor of the Town of Markham and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Markham.

Composition,
Newmarket
Hydro-
Electric
Commission

(4) The commission established for the Town of Newmarket by subsection 1 shall be known as the Newmarket Hydro-Electric Commission and shall consist of the mayor of Newmarket and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Newmarket.

Composition,
Richmond
Hill Hydro-
Electric
Commission

(5) The commission established for the Town of Richmond Hill by subsection 1 shall be known as the Richmond Hill Hydro-Electric Commission and shall consist of the mayor of the Town of Richmond Hill and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Richmond Hill.

Composition,
Vaughan
Hydro-
Electric
Commission

(6) The commission established for the Town of Vaughan by subsection 1 shall be known as the Vaughan Hydro-Electric Commission and shall consist of the mayor of the Town of Vaughan and four additional members who are

qualified electors under *The Municipal Elections Act, 1977* 1977, c. 62 in the Town of Vaughan.

(7) The commission established for the Town of Whitchurch-Stouffville by subsection 1 shall be known as the Whitchurch-Stouffville Hydro-Electric Commission and shall consist of the mayor of the Town of Whitchurch-Stouffville and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Whitchurch-Stouffville.

Composition,
Whitchurch-
Stouffville
Hydro-
Electric
Commission

(8) The commission established for the Township of Georgina under subsection 1 shall be known as the Georgina Hydro-Electric Commission and shall consist of the mayor of the Township of Georgina and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Georgina.

Composition,
Georgina
Hydro-
Electric
Commission

(9) The commission established for the Township of King by subsection 1 shall be known as the King Hydro-Electric Commission and shall consist of the mayor of the Township of King and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of King.

Composition,
King
Hydro-
Electric
Commission

(10) For the term expiring with the 30th day of November, 1980, the two additional members of each of the Aurora Hydro-Electric Commission, the Georgina Hydro-Electric Commission, the King Hydro-Electric Commission, and the Whitchurch-Stouffville Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the area municipality served by each of the commissions, and at least one of the additional members shall be appointed from among the members of the hydro-electric commissions that supplied power within the area municipality immediately before the coming into force of this Act.

Additional
members of
first com-
missions of
Aurora,
Georgina,
King,
Whitchurch-
Stouffville

(11) For the term expiring with the 30th day of November, 1980, the four additional members of the Markham Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Markham and,

Additional
members of
first com-
mission,
Markham

- (a) two of them shall be appointed from among the members of the Public Utilities Commission of the Town of Markham immediately before the coming into force of this Act; and
- (b) two of them shall be persons who reside outside the area supplied with power by the Public Utilities

Commission of the Town of Markham immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Newmarket

(12) For the term expiring with the 30th day of November, 1980, the four additional members of the Newmarket Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Newmarket and,

- (a) one of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Newmarket immediately before the coming into force of this Act; and
- (b) two of them shall be persons who reside outside the area supplied with power by the Hydro-Electric Commission of the Town of Newmarket immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Richmond
Hill

(13) For the term expiring with the 30th day of November, 1980, the four additional members of the Richmond Hill Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Richmond Hill and,

- (a) two of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Richmond Hill immediately before the coming into force of this Act;
- (b) one of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Vaughan immediately before the coming into force of this Act; and
- (c) one of them shall be a person who resides in the area supplied with power by Ontario Hydro immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Vaughan

(14) For the term expiring with the 30th day of November, 1980, the four additional members of the Vaughan Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Vaughan and,

- (a) two of them shall be appointed from among the members of the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act; and
- (b) one of them shall be appointed from among the members of the Hydro-Electric Commission of the

Village of Woodbridge immediately before the coming into force of this Act.

(15) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional members of subsequent commissions

(16) Members of the council of the area municipality served by a commission established by subsection 1 appointed or elected as members of the commission shall not form a majority of the commission.

Members of council not to form majority of commission

(17) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of office

(18) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(19) The salary of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980, shall be fixed on or before the 1st day of November, 1978 in an amount that does not exceed the highest salary paid to members of the hydro-electric commissions operating in the Regional Area within the meaning of *The Regional Municipality of York Act* on the 1st day of January, 1978.

Salary of first commissions

R.S.O. 1970, c. 408

(20) A resignation from the council of a member of a council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the commission and the council.

Resignation

(21) After the 1st day of January, 1980, the council of the area municipality may, by by-law, determine whether a commission established by subsection 1 shall consist of three or five members.

When area municipality to determine size of commission

3.—(1) Notwithstanding subsection 3 of section 4, the council of an area municipality that is not served by a commission established under section 2, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the area municipality.

Establishment of commission by by-law

Nature of commission	(2) The commission established under subsection 1 shall be deemed to be a commission established under Part III of <i>The Public Utilities Act</i> and a municipal commission within the meaning of <i>The Power Corporation Act</i> .
R.S.O. 1970, cc. 390, 354	
Composi- tion	(3) The commission established under subsection 1 shall be known as the "Hydro-Electric Commission" and shall consist of the mayor of the area municipality and two additional members who shall be qualified electors under <i>The Municipal Elections Act, 1977</i> in the area municipality.
1977, c. 62	
Term of office	(4) The term of office of the members of the commission established under subsection 1 shall be the same as the term of office of the council of the area municipality.
First additional members	(5) The first additional members of the commission shall be appointed by the council of the area municipality.
Subsequent additional members	(6) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the area municipality provides by by-law that the additional members shall be appointed by the council.
Applica- tion of other sections of Act	(7) Upon the establishment of the commission under subsection 1, <ul style="list-style-type: none"> (a) subsections 16, 17, 18, 20 and 21 of section 2 shall apply, with necessary modifications, to the commission; (b) subsections 1, 2, 4, 5, 6, 9, 10 and 11 of section 4 shall apply, with necessary modifications, to the commission, and, for the purpose, <ul style="list-style-type: none"> (i) the date mentioned in subsections 1, 2 and 6, (ii) the date mentioned in subsection 9, and (iii) the date mentioned in subsection 11, of the said section 4 shall be deemed to be such dates as shall be specified in the by-law mentioned in subsection 1 of this section; (c) sections 5, 6, 7 and 9 shall apply, with necessary modifications, to the commission; and

- (d) the commission, for the purposes of clauses *a*, *b* and *c*, shall be deemed to be a commission established under section 2.

4.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power, shall, on and after the 1st day of January, 1979, be exercised on behalf of each of the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King by the commission established by section 2 in respect of the municipality and not by the council of any municipality or any other hydro-electric commission.

Powers
of com-
missions
R.S.O. 1970,
c. 390

(2) Subject to subsections 3 and 5 and to any subsisting contracts for the supply of power to customers within the meaning of subsection 1 of section 37*a* of *The Ontario Energy Board Act*, on and after the 1st day of January, 1979, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established, and may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality without electoral assent or other approval or authorization and such a contract shall be deemed to be an agreement within the meaning of clause *s* of subsection 2 of section 293 of *The Municipal Act*.

Idem
R.S.O. 1970,
c. 312

R.S.O. 1970,
c. 284

(3) Notwithstanding subsection 2, but subject to subsections 12 and 14, Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Whitchurch-Stouffville, the Township of East Gwillimbury, the Township of Georgina and the Township of King that it served immediately before the coming into force of this Act, and subsections 5, 10 and 11 do not apply.

Where
Ontario
Hydro to
continue to
distribute
and supply
power

(4) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to each of the commissions established by section 2.

Applica-
tion of
R.S.O. 1970,
c. 354

(5) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers within the municipality in respect of which the commission is established.

Direct
customers

Transfer of
assets and
liabilities

(6) On the 1st day of January, 1979, all assets under the control and management of and all liabilities of hydro-electric commissions distributing and selling power in the area municipalities, to the extent that they pertain to the distribution and supply of power in each area municipality, are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Compensa-
tion by
Richmond
Hill Hydro-
Electric Com-
mission

(7) Notwithstanding subsection 6, the Richmond Hill Hydro-Electric Commission established by section 2 shall pay compensation to the Vaughan Hydro-Electric Commission established by section 2 for the assets pertaining to the retail distribution and supply of power in that portion of the Town of Richmond Hill supplied with power by the Hydro-Electric Commission of the Town of Vaughan immediately before the coming into force of this Act, and the amount of the compensation shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated depreciation associated with the assets;
- (b) the equity in the Hydro-Electric Commission of the Town of Vaughan of the customers supplied with power through the assets; and
- (c) any liabilities associated with the assets that are assumed by the Richmond Hill Hydro-Electric Commission.

Idem,
calculation
of equity

(8) The equity referred to in clause *b* of subsection 7 shall be calculated so that the equity in the Hydro-Electric Commission of the Town of Vaughan of a customer in the Town of Vaughan is not altered by the transfer of the assets referred to in subsection 7.

Transi-
tional

(9) Such management and control of works for the distribution and supply of power within the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King as are exercised by hydro-electric commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of December, 1978, but any of the assets, powers and responsibilities of such commissions and Ontario Hydro pertaining to the distribution and supply of power in any of the municipalities may by agreement be transferred before that date to a commission established by section 2 in respect of the municipality.

(10) Subject to subsections 3 and 5 and the regulations, and except as otherwise agreed between Ontario Hydro and the commission, each commission established by section 2 shall acquire, on behalf of the area municipality served by the commission, the assets and liabilities of Ontario Hydro pertaining to the retail distribution and supply of power within the municipality, including equipment leased by Ontario Hydro to retail customers within the municipality for the use of such power, and the commission shall pay to Ontario Hydro an amount equal to the original cost of the assets less the sum of,

Purchase of
retail
distribu-
tion
facilities

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

(11) If the amount payable under section 7 or 10 has not been determined before the 1st day of July, 1979, the amount shall be determined in accordance with subsections 7 and 8 or subsection 10, as the case requires, and in accordance with the regulations, by a board of arbitration, and the decision of the board of arbitration shall not be subject to appeal and,

Where
amount
to be deter-
mined by
arbitration

- (a) on or before the 1st day of August, 1979, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties;
- (c) if a party fails to appoint a member to a board of arbitration pursuant to clause *a* or if the members do not appoint a chairman pursuant to clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the Court may appoint the member or chairman;

- (d) except as otherwise provided in this subsection, *The Arbitrations Act* applies to this subsection; and

R.S.O. 1970,
c. 25

(e) in this subsection, “parties” means,

- (i) in the case of subsection 7, the Richmond Hill Hydro-Electric Commission and the Vaughan Hydro-Electric Commission, and
- (ii) in the case of subsection 10, Ontario Hydro and, in each case, the commission established by section 2.

Supply of
power in all
areas of
municipalities of
Whitchurch-
Stouffville,
Georgina,
King

(12) The council of the Town of Whitchurch-Stouffville, the Township of Georgina or the Township of King, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day subsections 10 and 11 and section 7 shall apply with necessary modifications; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution
and supply of
power

(13) Until such time as the power conferred by subsection 12 has been exercised,

- (a) the councils of the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 12; and

- (b) where the council of the Town of Whitchurch-Stouffville, the Township of Georgina or the Township of King determines as provided in clause a that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 12.

5.—(1) All real property transferred pursuant to section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission, shall be held by the commission in trust for the area municipality served by the commission.

Vesting
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition
of real
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the area municipality in good faith no longer wishes to use the real property for a municipal purpose the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor pursuant to this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

Borrowing
R.S.O. 1970,
c. 408

6. Except as otherwise provided in this Act, sections 126 to 147 of *The Regional Municipality of York Act*, apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

7.—(1) In this section, “transfer date”, when used in respect of an employee of a hydro-electric commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1978, each hydro-electric commission shall designate those of its full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1978, and who continued such employment until the 31st day of December, 1978 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Idem,
Ontario
Hydro

(3) On or before the 31st day of December, 1978, Ontario Hydro shall designate those of its full-time employees who were employed in the distribution and supply of power in the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill and the Town of Vaughan on the 1st day of January, 1978 and who continued such employment until the 31st day of December, 1978 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(4) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Partici-
pation in
O.M.E.R.S.

(5) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(6) When a person who accepts employment under this section with a commission established by section 2 is entitled

to the benefit of a supplementary agreement between a hydro-electric commission and the Ontario Municipal Employees Retirement Board immediately before his transfer date, the commission shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the hydro-electric commission.

(7) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension
credits from
Ontario
Hydro plan

(8) Notwithstanding subsection 5, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1978, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 5 shall be apportioned and paid as provided by the regulations.

(9) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem

(10) On or before the 31st day of December, 1980, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the employee was entitled immediately before his transfer date.

Sick leave

(11) A person who accepts employment under this section shall continue to enjoy as a term of his employment, the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the employee shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners

(12) The commissions established by section 2 shall continue the provision of life insurance to pensioners formerly employed in the distribution and supply of power in the area municipalities by public utilities commissions and municipal hydro-electric commissions.

Termination for cause

(13) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances

(14) Where, under this section, an employee, in the opinion of the Minister, experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions
R.S.O. 1970,
c. 408

8. For the purposes of section 169 of *The Regional Municipality of York Act*, the 1st day of January, 1979 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of York Act*, and on that date the hydro-electric commissions that distribute and supply only power are dissolved and the by-laws establishing them passed pursuant to sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

R.S.O. 1970,
c. 390

Regulations

9. The Lieutenant Governor in Council may make regulations,

(a) for the purpose of subsection 10 of section 4 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation or any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 8 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

10. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}

11. The short title of this Act is *The York Municipal* ^{Short title} *Hydro-Electric Service Act, 1978.*

An Act to provide for Municipal
Hydro-Electric Service in
The Regional Municipality of York

1st Reading

April 18th, 1978

2nd Reading

3rd Reading

THE HON. R. BAETZ
Minister of Energy

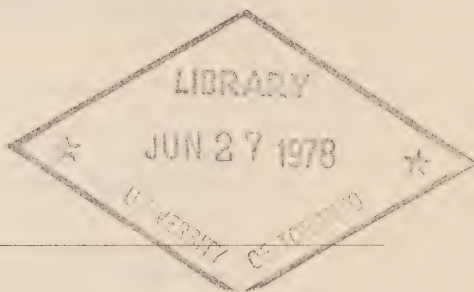
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BILL 66

Government Bill

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

**An Act to provide for Municipal Hydro-Electric Service in
The Regional Municipality of York**



THE HON. R. BAETZ
Minister of Energy

(Reprinted as amended by the Committee of the Whole House)

TORONTO

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EXPLANATORY NOTE

The Bill establishes new municipal hydro-electric commissions for the municipalities of Aurora, Georgina, King, Markham, Newmarket, Richmond Hill, Vaughan and Whitchurch-Stouffville and provides for the future establishment of a municipal hydro-electric commission for the Township of East Gwillimbury.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine at a future date whether the members of its commission should be elected or appointed.

Customers within Aurora, Markham, Newmarket, Richmond Hill and Vaughan presently served by Ontario Hydro's rural retail power distribution system will be supplied with power by the new commissions.

Customers within Georgina, King and Whitchurch-Stouffville presently served by Ontario Hydro will continue to be served by Ontario Hydro until the area municipal council directs the commission to expand its service area to the municipal boundaries. All customers in East Gwillimbury will continue to be served by Ontario Hydro until the area council establishes a hydro-electric commission under section 3 of the Bill.

Also, the council of Georgina, King or Whitchurch-Stouffville may dissolve a commission established by or under this Bill and on the dissolution Ontario Hydro will commence to distribute and supply power in all areas of the municipality.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

BILL 66

1978

An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of York

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “accumulated net retail equity” means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) “area municipality” has the same meaning as in *The Regional Municipality of York Act*; R.S.O. 1970,
c. 408
- (c) “hydro-electric commission” means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of York Act* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; R.S.O. 1970,
c. 390
- (d) “Minister” means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (e) “power” means electrical power and includes electrical energy;
- (f) “regulations” means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King is hereby established, and each commission shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,
cc. 390, 354

Composition,
Aurora
Hydro-
Electric
Commission

(2) The commission for the Town of Aurora established by subsection 1 shall be known as the Aurora Hydro-Electric Commission and shall consist of the mayor of the Town of Aurora and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Aurora.

1977, c. 62

Composition,
Markham
Hydro-
Electric
Commission

(3) The commission established for the Town of Markham by subsection 1 shall be known as the Markham Hydro-Electric Commission and shall consist of the mayor of the Town of Markham and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Markham.

Composition,
Newmarket
Hydro-
Electric
Commission

(4) The commission established for the Town of Newmarket by subsection 1 shall be known as the Newmarket Hydro-Electric Commission and shall consist of the mayor of Newmarket and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Newmarket.

Composition,
Richmond
Hill Hydro-
Electric
Commission

(5) The commission established for the Town of Richmond Hill by subsection 1 shall be known as the Richmond Hill Hydro-Electric Commission and shall consist of the mayor of the Town of Richmond Hill and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Richmond Hill.

Composition,
Vaughan
Hydro-
Electric
Commission

(6) The commission established for the Town of Vaughan by subsection 1 shall be known as the Vaughan Hydro-Electric Commission and shall consist of the mayor of the Town of Vaughan and four additional members who are

qualified electors under *The Municipal Elections Act, 1977* 1977, c. 62 in the Town of Vaughan.

(7) The commission established for the Town of Whitchurch-Stouffville by subsection 1 shall be known as the Whitchurch-Stouffville Hydro-Electric Commission and shall consist of the mayor of the Town of Whitchurch-Stouffville and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Whitchurch-Stouffville.

Composition,
Whitchurch-
Stouffville
Hydro-
Electric
Commission

(8) The commission established for the Township of Georgina under subsection 1 shall be known as the Georgina Hydro-Electric Commission and shall consist of the mayor of the Township of Georgina and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Georgina.

Composition,
Georgina
Hydro-
Electric
Commission

(9) The commission established for the Township of King by subsection 1 shall be known as the King Hydro-Electric Commission and shall consist of the mayor of the Township of King and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of King.

Composition,
King
Hydro-
Electric
Commission

(10) For the term expiring with the 30th day of November, 1980, the two additional members of each of the Aurora Hydro-Electric Commission, the Georgina Hydro-Electric Commission, the King Hydro-Electric Commission, and the Whitchurch-Stouffville Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the area municipality served by each of the commissions, and at least one of the additional members shall be appointed from among the members of the hydro-electric commissions that supplied power within the area municipality immediately before the coming into force of this Act.

Additional
members of
first com-
missions of
Aurora,
Georgina,
King,
Whitchurch-
Stouffville

(11) For the term expiring with the 30th day of November, 1980, the four additional members of the Markham Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Markham and,

Additional
members of
first com-
mission,
Markham

(a) two of them shall be appointed from among the members of the Public Utilities Commission of the Town of Markham immediately before the coming into force of this Act; and

(b) two of them shall be persons who reside outside the area supplied with power by the Public Utilities

Commission of the Town of Markham immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Newmarket

(12) For the term expiring with the 30th day of November, 1980, the four additional members of the Newmarket Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Newmarket and,

- (a) one of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Newmarket immediately before the coming into force of this Act; and
- (b) two of them shall be persons who reside outside the area supplied with power by the Hydro-Electric Commission of the Town of Newmarket immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Richmond
Hill

(13) For the term expiring with the 30th day of November, 1980, the four additional members of the Richmond Hill Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Richmond Hill and,

- (a) two of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Richmond Hill immediately before the coming into force of this Act;
- (b) one of them shall be appointed from among the members of the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act; and
- (c) one of them shall be a person who resides in the area supplied with power by Ontario Hydro immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Vaughan

(14) For the term expiring with the 30th day of November, 1980, the four additional members of the Vaughan Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Vaughan and,

- (a) two of them shall be appointed from among the members of the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act; and
- (b) one of them shall be appointed from among the members of the Hydro-Electric Commission of the

Village of Woodbridge immediately before the coming into force of this Act.

(15) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional
members of
subsequent
com-
missions

(16) Members of the council of the area municipality served by a commission established by subsection 1 appointed as members of the commission shall not form a majority of the commission.

Members of
council not
to form
majority of
commission

(17) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of
office

(18) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(19) The salary of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980, shall be fixed on or before the 1st day of November, 1978 in an amount that does not exceed the highest salary paid to members of the hydro-electric commissions operating in the Regional Area within the meaning of *The Regional Municipality of York Act* on the 1st day of January, 1978.

Salary of
first com-
missions

R.S.O. 1970,
c. 408

(20) A resignation from the council of a member of a council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the commission and the council.

Resig-
nation

(21) After the 1st day of January, 1980, the council of the area municipality may, by by-law, determine whether a commission established by subsection 1 shall consist of three or five members.

When area
municipal-
ity to
determine
size of
commission

3.—(1) Notwithstanding subsection 3 of section 4, the council of an area municipality that is not served by a commission established under section 2, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the area municipality.

Establish-
ment of
commission
by by-law

Nature of commission	(2) The commission established under subsection 1 shall be deemed to be a commission established under Part III of <i>The Public Utilities Act</i> and a municipal commission within the meaning of <i>The Power Corporation Act</i> .
R.S.O. 1970, cc. 390, 354	
Composi- tion	(3) The commission established under subsection 1 shall be known as the "Hydro-Electric Commission of....." and shall consist of the mayor of the area municipality and two additional members who shall be qualified electors under <i>The Municipal Elections Act, 1977</i> in the area municipality.
1977, c. 62	
Term of office	(4) The term of office of the members of the commission established under subsection 1 shall be the same as the term of office of the council of the area municipality.
First additional members	(5) The first additional members of the commission shall be appointed by the council of the area municipality.
Subsequent additional members	(6) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the area municipality provides by by-law that the additional members shall be appointed by the council.
Applica- tion of other sections of Act	(7) Upon the establishment of the commission under subsection 1, <ul style="list-style-type: none"> (a) subsections 16, 17, 18, 20 and 21 of section 2 shall apply, with necessary modifications, to the commission; (b) subsections 1, 2, 4, 5, 6, 9, 10 and 11 of section 4 shall apply, with necessary modifications, to the commission, and, for the purpose, <ul style="list-style-type: none"> (i) the date mentioned in subsections 1, 2 and 6, (ii) the date mentioned in subsection 9, and (iii) the date mentioned in subsection 11, of the said section 4 shall be deemed to be such dates as shall be specified in the by-law mentioned in subsection 1 of this section; (c) sections 5, 6, 7 and 9 shall apply, with necessary modifications, to the commission; and

- (d) the commission, for the purposes of clauses *a*, *b* and *c*, shall be deemed to be a commission established under section 2.

4.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power, shall, on and after the 1st day of January, 1979, be exercised on behalf of each of the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King by the commission established by section 2 in respect of the municipality and not by the council of any municipality or any other hydro-electric commission.

Powers
of com-
missions
R.S.O. 1970,
c. 390

(2) Subject to subsections 3 and 5 and to any subsisting contracts for the supply of power to customers within the meaning of subsection 1 of section 37*a* of *The Ontario Energy Board Act*, on and after the 1st day of January, 1979, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established, and may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality without electoral assent or other approval or authorization and such a contract shall be deemed to be an agreement within the meaning of clause *s* of subsection 2 of section 293 of *The Municipal Act*.

Idem

R.S.O. 1970,
c. 312

R.S.O. 1970,
c. 284

(3) Notwithstanding subsection 2, but subject to subsections 12 and 13, Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Whitchurch-Stouffville, the Town of East Gwillimbury, the Township of Georgina and the Township of King that it served immediately before the coming into force of this Act, and subsections 5, 10 and 11 do not apply.

Where
Ontario
Hydro to
continue to
distribute
and supply
power

(4) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to each of the commissions established by section 2.

Applica-
tion of
R.S.O. 1970,
c. 354

(5) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers within the municipality in respect of which the commission is established.

Direct
customers

Transfer of
assets and
liabilities

(6) On the 1st day of January, 1979, all assets under the control and management of and all liabilities of hydro-electric commissions distributing and selling power in the area municipalities, to the extent that they pertain to the distribution and supply of power in each area municipality, are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Compensa-
tion by
Richmond
Hill Hydro-
Electric
Com-
mission

(7) Notwithstanding subsection 6, the Richmond Hill Hydro-Electric Commission established by section 2 shall pay compensation to the Vaughan Hydro-Electric Commission established by section 2 for the assets pertaining to the retail distribution and supply of power in that portion of the Town of Richmond Hill supplied with power by the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act, and the amount of the compensation shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated depreciation associated with the assets;
- (b) the equity in the Hydro-Electric Commission of the Township of Vaughan of the customers supplied with power through the assets; and
- (c) any liabilities associated with the assets that are assumed by the Richmond Hill Hydro-Electric Commission.

Idem,
calculation
of equity

(8) The equity referred to in clause *b* of subsection 7 shall be calculated so that the equity in the Hydro-Electric Commission of the Township of Vaughan of a customer in the Town of Vaughan is not altered by the transfer of the assets referred to in subsection 7.

Transi-
tional

(9) Such management and control of works for the distribution and supply of power within the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King as are exercised by hydro-electric commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of December, 1978, but any of the assets, powers and responsibilities of such commissions and Ontario Hydro pertaining to the distribution and supply of power in any of the municipalities may by agreement be transferred before that date to a commission established by section 2 in respect of the municipality.

(10) Subject to subsections 3 and 5 and the regulations, and except as otherwise agreed between Ontario Hydro and the commission, each commission established by section 2 shall acquire, on behalf of the area municipality served by the commission, the assets and liabilities of Ontario Hydro pertaining to the retail distribution and supply of power within the municipality, including equipment leased by Ontario Hydro to retail customers within the municipality for the use of such power, and the commission shall pay to Ontario Hydro an amount equal to the original cost of the assets less the sum of,

Purchase of
retail
distribu-
tion
facilities

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

(11) If the amount payable under subsection 7 or 10 has not been determined before the 1st day of July, 1979, the amount shall be determined in accordance with subsections 7 and 8 or subsection 10, as the case requires, and in accordance with the regulations, by a board of arbitration, and,

Where
amount
to be deter-
mined by
arbitration

- (a) on or before the 1st day of August, 1979, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties;
- (c) if a party fails to appoint a member to a board of arbitration pursuant to clause *a* or if the members do not appoint a chairman pursuant to clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the Court may appoint the member or chairman;
- (d) except as otherwise provided in this subsection, *The Arbitrations Act* applies to this subsection; and
- (e) in this subsection, "parties" means,

R.S.O. 1970,
c. 25

(i) in the case of subsection 7, the Richmond Hill Hydro-Electric Commission and the Vaughan Hydro-Electric Commission, and

(ii) in the case of subsection 10, Ontario Hydro and, in each case, the commission established by section 2.

Supply of
power in all
areas of
municipalities of
Whitchurch-
Stouffville,
Georgina,
King

(12) The council of the Town of Whitchurch-Stouffville, the Township of Georgina or the Township of King, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

(a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day subsections 10 and 11 and section 7 shall apply with necessary modifications; or

(b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,

(i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and

(ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution and
supply of
power

(13) Until such time as the power conferred by subsection 12 has been exercised,

(a) the councils of the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 12; and

(b) where the council of the Town of Whitchurch-Stouffville, the Township of Georgina or the Township of King determines as provided in clause a

that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 12.

(14) For the purpose of the calculations mentioned in subsections 7, 8 and 10, "original cost" and "equity" do not include capital contributions by customers or developers.

Interpretation:
original cost, equity

5.—(1) All real property transferred pursuant to section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission, shall be held by the commission in trust for the area municipality served by the commission.

Vesting of real property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition of real property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the area municipality in good faith no longer wishes to use the real property for a municipal purpose the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor pursuant to this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

Borrowing
R.S.O. 1970,
c. 408

6. Except as otherwise provided in this Act, sections 126 to 147 of *The Regional Municipality of York Act*, apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

7.—(1) In this section, “transfer date”, when used in respect of an employee of a hydro-electric commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1978, each hydro-electric commission shall designate those of its full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1978, and who continued such employment until the 31st day of December, 1978 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Idem,
Ontario
Hydro

(3) On or before the 31st day of December, 1978, Ontario Hydro shall designate those of its full-time employees who were employed in the distribution and supply of power in the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill and the Town of Vaughan on the 1st day of January, 1978 and who continued such employment until the 31st day of December, 1978 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(4) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Partici-
pation in
O.M.E.R.S.

(5) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(6) When a person who accepts employment under this section with a commission established by section 2 is entitled

to the benefit of a supplementary agreement between a hydro-electric commission and the Ontario Municipal Employees Retirement Board immediately before his transfer date, the commission shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the hydro-electric commission.

(7) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension
credits from
Ontario
Hydro plan

(8) Notwithstanding subsection 5, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1978, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 5 shall be apportioned and paid as provided by the regulations.

(9) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem (10) On or before the 31st day of December, 1980, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the employee was entitled immediately before his transfer date.

Sick leave (11) A person who accepts employment under this section shall continue to enjoy as a term of his employment, the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the employee shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners (12) The commissions established by section 2 shall continue the provision of life insurance to pensioners formerly employed in the distribution and supply of power in the area municipalities by public utilities commissions and municipal hydro-electric commissions.

Termination for cause (13) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances (14) Where, under this section, an employee, in the opinion of the Minister, experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions
R.S.O. 1970, c. 408

R.S.O. 1970, c. 390

8. For the purposes of section 169 of *The Regional Municipality of York Act*, the 1st day of January, 1979 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of York Act*, and on that date the hydro-electric commissions that distribute and supply only power are dissolved and the by-laws establishing them passed pursuant to sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

Regulations 9. The Lieutenant Governor in Council may make regulations,

(a) for the purpose of subsection 10 of section 4 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation or any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 8 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

10. This Act comes into force on the day it receives Royal Assent. ^{Commence-}_{ment}

11. The short title of this Act is *The York Municipal Hydro-Electric Service Act, 1978*. ^{Short title}

An Act to provide for Municipal
Hydro-Electric Service in
The Regional Municipality of York

1st Reading

April 18th, 1978

2nd Reading

May 23rd, 1978

3rd Reading

THE HON. R. BAETZ
Minister of Energy

*(Reprinted as amended by the
Committee of the Whole House)*

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BILL 66

2ND SESSION, 31ST LEGISLATURE, ONTARIO
27 ELIZABETH II, 1978

An Act to provide for Municipal Hydro-Electric Service in
The Regional Municipality of York

THE HON. R. BAETZ
Minister of Energy

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 66

1978

**An Act to provide for Municipal
Hydro-Electric Service in
The Regional Municipality of York**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" has the same meaning as in *The Regional Municipality of York Act*; R.S.O. 1970,
c. 408
- (c) "hydro-electric commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of York Act* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; R.S.O. 1970,
c. 390
- (d) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King is hereby established, and each commission shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

R.S.O. 1970,
cc. 390, 354

Composition,
Aurora
Hydro-
Electric
Commission

(2) The commission for the Town of Aurora established by subsection 1 shall be known as the Aurora Hydro-Electric Commission and shall consist of the mayor of the Town of Aurora and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Aurora.

1977, c. 62

Composition,
Markham
Hydro-
Electric
Commission

(3) The commission established for the Town of Markham by subsection 1 shall be known as the Markham Hydro-Electric Commission and shall consist of the mayor of the Town of Markham and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Markham.

Composition,
Newmarket
Hydro-
Electric
Commission

(4) The commission established for the Town of Newmarket by subsection 1 shall be known as the Newmarket Hydro-Electric Commission and shall consist of the mayor of Newmarket and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Newmarket.

Composition,
Richmond
Hill Hydro-
Electric
Commission

(5) The commission established for the Town of Richmond Hill by subsection 1 shall be known as the Richmond Hill Hydro-Electric Commission and shall consist of the mayor of the Town of Richmond Hill and four additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Richmond Hill.

Composition,
Vaughan
Hydro-
Electric
Commission

(6) The commission established for the Town of Vaughan by subsection 1 shall be known as the Vaughan Hydro-Electric Commission and shall consist of the mayor of the Town of Vaughan and four additional members who are

qualified electors under *The Municipal Elections Act, 1977* 1977, c. 62 in the Town of Vaughan.

(7) The commission established for the Town of Whitchurch-Stouffville by subsection 1 shall be known as the Whitchurch-Stouffville Hydro-Electric Commission and shall consist of the mayor of the Town of Whitchurch-Stouffville and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Town of Whitchurch-Stouffville.

Composition,
Whitchurch-Stouffville
Hydro-Electric
Commission

(8) The commission established for the Township of Georgina under subsection 1 shall be known as the Georgina Hydro-Electric Commission and shall consist of the mayor of the Township of Georgina and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Georgina.

Composition,
Georgina
Hydro-Electric
Commission

(9) The commission established for the Township of King by subsection 1 shall be known as the King Hydro-Electric Commission and shall consist of the mayor of the Township of King and two additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of King.

Composition,
King
Hydro-Electric
Commission

(10) For the term expiring with the 30th day of November, 1980, the two additional members of each of the Aurora Hydro-Electric Commission, the Georgina Hydro-Electric Commission, the King Hydro-Electric Commission, and the Whitchurch-Stouffville Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the area municipality served by each of the commissions, and at least one of the additional members shall be appointed from among the members of the hydro-electric commissions that supplied power within the area municipality immediately before the coming into force of this Act.

Additional
members of
first commissions of
Aurora,
Georgina,
King,
Whitchurch-Stouffville

(11) For the term expiring with the 30th day of November, 1980, the four additional members of the Markham Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Markham and,

Additional
members of
first commission,
Markham

- (a) two of them shall be appointed from among the members of the Public Utilities Commission of the Town of Markham immediately before the coming into force of this Act; and
- (b) two of them shall be persons who reside outside the area supplied with power by the Public Utilities

Commission of the Town of Markham immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Newmarket

(12) For the term expiring with the 30th day of November, 1980, the four additional members of the Newmarket Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Newmarket and,

- (a) one of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Newmarket immediately before the coming into force of this Act; and
- (b) two of them shall be persons who reside outside the area supplied with power by the Hydro-Electric Commission of the Town of Newmarket immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Richmond
Hill

(13) For the term expiring with the 30th day of November, 1980, the four additional members of the Richmond Hill Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Richmond Hill and,

- (a) two of them shall be appointed from among the members of the Hydro-Electric Commission of the Town of Richmond Hill immediately before the coming into force of this Act;
- (b) one of them shall be appointed from among the members of the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act; and
- (c) one of them shall be a person who resides in the area supplied with power by Ontario Hydro immediately before the coming into force of this Act.

Additional
members of
first com-
mission,
Vaughan

(14) For the term expiring with the 30th day of November, 1980, the four additional members of the Vaughan Hydro-Electric Commission established by subsection 1 shall be appointed by the council of the Town of Vaughan and,

- (a) two of them shall be appointed from among the members of the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act; and
- (b) one of them shall be appointed from among the members of the Hydro-Electric Commission of the

Village of Woodbridge immediately before the coming into force of this Act.

(15) For terms commencing after the 30th day of November, 1980, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1980 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional
members of
subsequent
com-
missions

(16) Members of the council of the area municipality served by a commission established by subsection 1 appointed as members of the commission shall not form a majority of the commission.

Members of
council not
to form
majority of
commission

(17) A member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of
office

(18) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(19) The salary of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1980, shall be fixed on or before the 1st day of November, 1978 in an amount that does not exceed the highest salary paid to members of the hydro-electric commissions operating in the Regional Area within the meaning of *The Regional Municipality of York Act* on the 1st day of January, 1978.

Salary of
first com-
missions

R.S.O. 1970,
c. 408

(20) A resignation from the council of a member of a council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the commission and the council.

Resig-
nation

(21) After the 1st day of January, 1980, the council of the area municipality may, by by-law, determine whether a commission established by subsection 1 shall consist of three or five members.

When area
municipal-
ity to
determine
size of
commission

3.—(1) Notwithstanding subsection 3 of section 4, the council of an area municipality that is not served by a commission established under section 2, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the area municipality.

Establish-
ment of
commission
by by-law

Nature of
commission

R.S.O. 1970,
cc. 390, 354

(2) The commission established under subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Composi-
tion

(3) The commission established under subsection 1 shall be known as the "Hydro-Electric Commission of....." and shall consist of the mayor of the area municipality and two additional members who shall be qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

1977, c. 62

Term of
office

(4) The term of office of the members of the commission established under subsection 1 shall be the same as the term of office of the council of the area municipality.

First
additional
members

(5) The first additional members of the commission shall be appointed by the council of the area municipality.

Subsequent
additional
members

(6) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Applica-
tion of other
sections
of Act

(7) Upon the establishment of the commission under subsection 1,

(a) subsections 16, 17, 18, 20 and 21 of section 2 shall apply, with necessary modifications, to the commission;

(b) subsections 1, 2, 4, 5, 6, 9, 10 and 11 of section 4 shall apply, with necessary modifications, to the commission, and, for the purpose,

(i) the date mentioned in subsections 1, 2 and 6,

(ii) the date mentioned in subsection 9, and

(iii) the date mentioned in subsection 11,

of the said section 4 shall be deemed to be such dates as shall be specified in the by-law mentioned in subsection 1 of this section;

(c) sections 5, 6, 7 and 9 shall apply, with necessary modifications, to the commission; and

- (d) the commission, for the purposes of clauses *a*, *b* and *c*, shall be deemed to be a commission established under section 2.

4.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power, shall, on and after the 1st day of January, 1979, be exercised on behalf of each of the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King by the commission established by section 2 in respect of the municipality and not by the council of any municipality or any other hydro-electric commission.

Powers
of com-
missions
R.S.O. 1970,
c. 390

(2) Subject to subsections 3 and 5 and to any subsisting contracts for the supply of power to customers within the meaning of subsection 1 of section 37*a* of *The Ontario Energy Board Act*, on and after the 1st day of January, 1979, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established, and may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality without electoral assent or other approval or authorization and such a contract shall be deemed to be an agreement within the meaning of clause *s* of subsection 2 of section 293 of *The Municipal Act*.

Idem
R.S.O. 1970,
c. 312

R.S.O. 1970,
c. 284

(3) Notwithstanding subsection 2, but subject to subsections 12 and 13, Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Whitchurch-Stouffville, the Town of East Gwillimbury, the Township of Georgina and the Township of King that it served immediately before the coming into force of this Act, and subsections 5, 10 and 11 do not apply.

Where
Ontario
Hydro to
continue to
distribute
and supply
power

(4) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to each of the commissions established by section 2.

Applica-
tion of
R.S.O. 1970,
c. 354

(5) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers within the municipality in respect of which the commission is established.

Direct
customers

Transfer of
assets and
liabilities

(6) On the 1st day of January, 1979, all assets under the control and management of and all liabilities of hydro-electric commissions distributing and selling power in the area municipalities, to the extent that they pertain to the distribution and supply of power in each area municipality, are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the municipality.

Compensa-
tion by
Richmond
Hill Hydro-
Electric
Com-
mission

(7) Notwithstanding subsection 6, the Richmond Hill Hydro-Electric Commission established by section 2 shall pay compensation to the Vaughan Hydro-Electric Commission established by section 2 for the assets pertaining to the retail distribution and supply of power in that portion of the Town of Richmond Hill supplied with power by the Hydro-Electric Commission of the Township of Vaughan immediately before the coming into force of this Act, and the amount of the compensation shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated depreciation associated with the assets;
- (b) the equity in the Hydro-Electric Commission of the Township of Vaughan of the customers supplied with power through the assets; and
- (c) any liabilities associated with the assets that are assumed by the Richmond Hill Hydro-Electric Commission.

Idem,
calculation
of equity

(8) The equity referred to in clause *b* of subsection 7 shall be calculated so that the equity in the Hydro-Electric Commission of the Township of Vaughan of a customer in the Town of Vaughan is not altered by the transfer of the assets referred to in subsection 7.

Transi-
tional

(9) Such management and control of works for the distribution and supply of power within the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill, the Town of Vaughan, the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King as are exercised by hydro-electric commissions and Ontario Hydro immediately before this Act comes into force remain entrusted to them to and including the 31st day of December, 1978, but any of the assets, powers and responsibilities of such commissions and Ontario Hydro pertaining to the distribution and supply of power in any of the municipalities may by agreement be transferred before that date to a commission established by section 2 in respect of the municipality.

(10) Subject to subsections 3 and 5 and the regulations,^{Purchase of retail distribution facilities} and except as otherwise agreed between Ontario Hydro and the commission, each commission established by section 2 shall acquire, on behalf of the area municipality served by the commission, the assets and liabilities of Ontario Hydro pertaining to the retail distribution and supply of power within the municipality, including equipment leased by Ontario Hydro to retail customers within the municipality for the use of such power, and the commission shall pay to Ontario Hydro an amount equal to the original cost of the assets less the sum of,

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

(11) If the amount payable under subsection 7 or 10 has^{Where amount to be determined by arbitration} not been determined before the 1st day of July, 1979, the amount shall be determined in accordance with subsections 7 and 8 or subsection 10, as the case requires, and in accordance with the regulations, by a board of arbitration, and,

- (a) on or before the 1st day of August, 1979, each party to the arbitration shall appoint a person as a member of the board of arbitration and shall give notice to the other party of the name and address of the person;
- (b) the two members of the board of arbitration, within ten days after the giving of the notice of appointment, shall appoint a third person to be chairman of the board of arbitration and the chairman shall give notice of his appointment to the parties;
- (c) if a party fails to appoint a member to a board of arbitration pursuant to clause *a* or if the members do not appoint a chairman pursuant to clause *b*, or in the event of the absence or inability to act or of a vacancy in the office of a member or the chairman of a board of arbitration, either party may apply on notice to the other party to the Divisional Court and the Court may appoint the member or chairman;
- (d) except as otherwise provided in this subsection, *The Arbitrations Act* applies to this subsection; and^{R.S.O. 1970, c. 25}
- (e) in this subsection, "parties" means,

(i) in the case of subsection 7, the Richmond Hill Hydro-Electric Commission and the Vaughan Hydro-Electric Commission, and

(ii) in the case of subsection 10, Ontario Hydro and, in each case, the commission established by section 2.

Supply of
power in all
areas of
municipalities of
Whitchurch-
Stouffville,
Georgina,
King

(12) The council of the Town of Whitchurch-Stouffville, the Township of Georgina or the Township of King, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

(a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day subsections 10 and 11 and section 7 shall apply with necessary modifications; or

(b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,

(i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and

(ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution and
supply of
power

(13) Until such time as the power conferred by subsection 12 has been exercised,

(a) the councils of the Town of Whitchurch-Stouffville, the Township of Georgina and the Township of King shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 12; and

(b) where the council of the Town of Whitchurch-Stouffville, the Township of Georgina or the Township of King determines as provided in clause *a*

that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 12.

(14) For the purpose of the calculations mentioned in subsections 7, 8 and 10, "original cost" and "equity" do not include capital contributions by customers or developers.

Interpretation:
original
cost, equity

5.—(1) All real property transferred pursuant to section 4 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission, shall be held by the commission in trust for the area municipality served by the commission.

Vesting
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition
of real
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the area municipality in good faith no longer wishes to use the real property for a municipal purpose the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor pursuant to this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

Borrowing
R.S.O. 1970,
c. 408

6. Except as otherwise provided in this Act, sections 126 to 147 of *The Regional Municipality of York Act*, apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

7.—(1) In this section, “transfer date”, when used in respect of an employee of a hydro-electric commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1978, each hydro-electric commission shall designate those of its full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1978, and who continued such employment until the 31st day of December, 1978 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Idem,
Ontario
Hydro

(3) On or before the 31st day of December, 1978, Ontario Hydro shall designate those of its full-time employees who were employed in the distribution and supply of power in the municipalities of the Town of Aurora, the Town of Markham, the Town of Newmarket, the Town of Richmond Hill and the Town of Vaughan on the 1st day of January, 1978 and who continued such employment until the 31st day of December, 1978 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(4) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Partici-
pation in
O.M.E.R.S.

(5) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(6) When a person who accepts employment under this section with a commission established by section 2 is entitled

to the benefit of a supplementary agreement between a hydro-electric commission and the Ontario Municipal Employees Retirement Board immediately before his transfer date, the commission shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the hydro-electric commission.

(7) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension
credits from
Ontario
Hydro plan

(8) Notwithstanding subsection 5, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1978, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 5 shall be apportioned and paid as provided by the regulations.

(9) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem

(10) On or before the 31st day of December, 1980, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the employee was entitled immediately before his transfer date.

Sick leave

(11) A person who accepts employment under this section shall continue to enjoy as a term of his employment, the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the employee shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners

(12) The commissions established by section 2 shall continue the provision of life insurance to pensioners formerly employed in the distribution and supply of power in the area municipalities by public utilities commissions and municipal hydro-electric commissions.

Termination for cause

(13) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances

(14) Where, under this section, an employee, in the opinion of the Minister, experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions
R.S.O. 1970, c. 408

8. For the purposes of section 169 of *The Regional Municipality of York Act*, the 1st day of January, 1979 is the date determined by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of York Act*, and on that date the hydro-electric commissions that distribute and supply only power are dissolved and the by-laws establishing them passed pursuant to sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

R.S.O. 1970, c. 390

Regulations

9. The Lieutenant Governor in Council may make regulations,

(a) for the purpose of subsection 10 of section 4 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation or any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 8 of section 7, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

10. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}

11. The short title of this Act is *The York Municipal* ^{Short title} *Hydro-Electric Service Act, 1978.*

An Act to provide for Municipal
Hydro-Electric Service in
The Regional Municipality of York

1st Reading

April 18th, 1978

2nd Reading

May 23rd, 1978

3rd Reading

June 13th, 1978

THE HON. R. BAETZ
Minister of Energy

